

POLICY

USAID/General Notice
M/OP
10/08/96

SUBJECT: Reissuance of the AID Acquisition Regulation (AIDAR)

Purpose: This Notice officially distributes the entire AID Acquisition Regulation (AIDAR), USAID's supplement to the Federal Acquisition Regulation (FAR). We are reissuing the entire AIDAR at this time so that Agency personnel will have the most current complete version to use as we begin a new fiscal year under the New Management System. The AIDAR is up-to-date through the many amendments made to it in AIDAR Notice 96-1, as published in the Federal Register in July 1996 and corrected through October 1, 1996.

The AIDAR is a mandatory reference to Chapter 302, USAID Direct Contracting, under the Automated Directives System (ADS)(see sections 302.5 Policy, and 302.6 Supplementary References), and will be distributed on the next Directives Resource CD.

The AIDAR was, along with the FAR, Handbook 14 under the old Handbook series.

Point of contact: Questions concerning this notice may be directed to Diane M. Howard, M/OP/P, (703)875-1310.

Notice 1012

SUBCHAPTER A - GENERAL

PART 701 -- FEDERAL ACQUISITION REGULATION SYSTEM

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Authority: Sec. 621, Pub. L. 87-195, 75 Stat. 445, (22 U.S.C. 2381) as amended; E.O. 12163, Sept. 29, 1979, 44 FR 56673; 3 CFR 1979 Comp., p. 435.

PART 701 -- FEDERAL ACQUISITION REGULATION SYSTEM

SUBPART 701.1 -- PURPOSE, AUTHORITY, ISSUANCE

701.105 OMB approval under the Paperwork Reduction Act.

(a) The following information collection and record keeping requirements established by AID have been approved by OMB, and assigned an OMB control number and approval/expiration dates as specified below:

AIDAR Segment	OMB Control Number	Expiration Date	Burden Hours Per Report
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733.7003(c)	0412-0520	09/30/96	40
752.209-70	0412-0520	09/30/96	4
752.219-8	0412-0520	09/30/96	1
752.245-70	0412-0520	09/30/96	.5
752.245-71	0412-0520	09/30/96	1
752.7001(a)	0412-0520	09/30/96	.5
752.7001(b)	0412-0520	09/30/96	.5
752.7002(j)	0412-0520	09/30/96	1
752.7003	0412-0520	09/30/96	8
752.7004(b)(4)	0412-0520	09/30/96	.5
752.7032	0412-0520	09/30/96	2
752.7033	0412-0536	09/30/96	4

(b) The information requested by the AIDAR sections listed in paragraph (a) is necessary to allow AID to prudently administer public funds. It lets AID make reasonable assessments of contractor capabilities and responsibility of costs. Information is required in order for a contractor and/or its employee to obtain a benefit-usually taking the form of payment under a government contract.

(c) Public reporting burden for these collections of information is estimated as shown in paragraph (a) of this section. The estimated burden includes the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding the burden estimates or any other aspects of these collections of information, including suggestions for reducing the burden, to:

US Agency for International Development,
Office of Procurement,
Policy Division (M/OP/P),
Washington, D.C. 20523-1435;

and

Office of Management and Budget, OMB,
Paperwork Reduction Project (0412-0520),
Washington, D.C. 20503.

SUBPART 701.3 -- AGENCY FOR INTERNATIONAL DEVELOPMENT ACQUISITION REGULATION

701.370 Purpose.

The Agency for International Development Acquisition Regulation (AIDAR) supplements the Federal Acquisition Regulation (FAR) and implements the procurement related aspects of the Foreign Assistance Act, Executive Order 11223. The AIDAR provides for the codification and publication of procedures for the acquisition of services and personal property by AID.

701.371 Authority.

The AIDAR is prepared by the AID Procurement Executive by direction of the Administrator of AID pursuant to the Foreign Assistance Act of 1961.

(See FAR Subpart 1.3)

701.372 Applicability.

(a) Unless a deviation is specifically authorized in accordance with Subpart 701.4, or unless otherwise provided, the FAR and AIDAR apply to all contracts (regardless of currency of payment, or whether funds are appropriated or non-appropriated) to which AID is a direct party.

(b) At Missions where joint administrative services are arranged, procuring offices may apply the Department of State Acquisition Regulation for all administrative and technical support contracts except in defined areas. The defined areas and administrative guidelines for procurement will be furnished to the overseas Missions by the Office of Administrative Services. Administrative and local support services include the procurement accountability, maintenance and disposal of all office and residential equipment and furnishings, vehicles and expendable supplies purchased with administrative and/or technical support funds, either dollars or local currency.

701.373 Code arrangement.

(a) The Federal Acquisition Regulation System brings together, in Title 48 of the Code of Federal Regulations, the procurement regulations that apply to all agencies of the Government. The FAR is Chapter 1 of Title 48; the AIDAR is Chapter 7.

(b) The FAR is divided into 53 parts; Parts 1 through 53 of AIDAR expand upon or modify the policies and procedures included in the FAR. Material issued in the first 53 parts of the AIDAR will be numerically keyed to the corresponding sections of the FAR.

701.374 Publication.

(a) Those parts of the AIDAR which contain basic and significant policies and procedures considered to be of interest to the general public will be published in the daily issues of the Federal Register and, in cumulated form, in the Code of Federal Regulations. Copies of the AIDAR in Federal Register and Code of Federal Regulations form may be purchased from the Superintendent of Documents, Government Printing Office, Washington, D.C. 20402.

(b) Public participation will be obtained for significant revisions to the AIDAR by soliciting comments in accordance with FAR 1.501 .

701.375 Citation.

Any section of the AIDAR may be identified by "AIDAR" followed by the section number. Within the AIDAR itself, internal references to an AIDAR section will cite the number only, and will not include the term "AIDAR". Since the AIDAR is published in the Federal Register, any section may be incorporated into contracts by reference, using the citation "48 CFR" followed by the section number, as "48 CFR 703.375."

701.376 Agency implementation.

701.376-1 Responsibility.

Responsibility for the development and maintenance of the AIDAR is assigned to the Procurement Executive. Amendments and revisions will be prepared in coordination with the General Counsel, and such other offices as may be appropriate.

701.376-2 AIDAR Notices.

AIDAR Notices will be used to promulgate changes to the AIDAR. Such Notices will be prepared by the Procurement Executive.

701.376-3 Appendices.

Procurement policies and instructions which are essentially informational or procedural may be issued as Appendices to the AIDAR. Appendices are filed behind the main text of the AIDAR in a section entitled "Appendices to Chapter 7." The Appendices section contains a

table of contents and individual Appendices. The Appendices are identified by letter and subject title (e.g. Appendix A, [title]).

701.376-4 Implementation within AID contracting activities.

The heads of the various AID contracting activities may issue operating instructions and procedures consistent with the FAR, AIDAR, and other Agency regulations, policies, and procedures for application within their organizations. One copy of each such issuance shall be forwarded to the Office of Procurement, Policy Division (M/OP/P). Insofar as possible, such material will be numerically keyed to the AIDAR.

701.377 Procurement policy.

Subject to the direction of the Administrator, the Procurement Executive will be responsible for the development and maintenance of necessary uniform procurement policies, procedures, and standards; for providing assistance to the contracting activities as appropriate; for keeping the Administrator and Executive Staff fully informed on procurement matters which should be brought to their attention.

SUBPART 701.4 -- DEVIATIONS FROM THE FAR OR AIDAR

701.402 Policy.

It is the policy of AID that deviation from the mandatory requirements of the FAR and AIDAR shall be kept at a minimum and be granted only if it is essential to effect necessary procurement and when special and exceptional circumstances make such deviation clearly in the best interest of the Government.

701.470 Procedure.

(a) Deviation from the FAR or AIDAR affecting one contract or transaction.

(1) Deviations which affect only one contract or procurement will

be made only after prior approval by the head of the contracting activity. Deviation requests containing the information listed in paragraph (c) of this section shall be submitted sufficiently in advance of the effective date of such deviation to allow adequate time for consideration and evaluation by the head of the contracting activity.

(2) Requests for such deviations may be initiated by the responsible AID contracting officer who shall obtain clearance and approvals as may be required by the head of the contracting activity. Prior to submission of the deviation request to the head of the contracting activity for approval, the contracting officer shall obtain written comments from the Office of Procurement, Policy Division (M/OP/P), hereinafter referred to as "M/OP/P". The M/OP/P shall normally be allowed 10 working days prior to the submission of the deviation request to the head of the contracting activity to review the request and to submit comments. If the exigency of the situation requires more immediate action, the requesting office may arrange with the M/OP/P for a shorter review period. In addition to a copy of the deviation request, the M/OP/P shall be furnished any background or historical data which will contribute to a more complete understanding of the deviation. The comments of the M/OP/P shall be made a part of the deviation request file which is forwarded to the head of the contracting activity.

(3) Coordination with the Office of General Counsel, as appropriate, should also be effected prior to approval of a deviation by the head of the contracting activity.

(b) Class deviations from the FAR or AIDAR: Class deviations are those

which affect more than one contract or contractor.

(1) Class deviations from the AIDAR will be processed in

the same manner as prescribed in paragraph (a) of this section. Individual heads of contracting activities have authority to approve class deviations affecting only contracts within their own contracting activities, except that the Director, M/OP, has authority to approve class deviations that affect more than one contracting activity.

(2) Class deviations from the FAR shall be considered jointly by AID and the Chairperson of the Civilian Agency Acquisition Council (C/CAAC) (FAR 1.404) unless, in the judgment of the head of the contracting activity, after due consideration of the objective of uniformity, circumstances preclude such consultation. The head of the contracting activity shall certify on the face of the deviation the reason for not coordinating with the C/CAAC. In such cases, M/OP/P shall be responsible for notifying the C/CAAC of the class deviation.

(3) Class deviations from the FAR shall be processed as follows:

(i) The request shall be processed in the same manner as paragraph (a) of this section, except that M/OP/P shall be allowed 15 working days prior to the submission of the deviation request to the head of the contracting activity to effect the necessary coordination with the C/CAAC and to submit comments. If the exigency of the situation requires more immediate action, the requesting office may arrange with M/OP/P for a shorter review and coordination period. The comments of the C/CAAC and M/OP/P shall be made a part of the deviation request file which is forwarded to the head of the contracting activity.

(ii) The request shall be processed in the same manner as paragraph (a) of this section if the request is not being jointly considered by AID and the C/CAAC.

(4) Deviations involving basic agreements or other master type contracts are considered to involve more than one contract.

(5) Unless the approval is sooner rescinded, class deviations shall expire 2 years from the date of approval provided that deviation authority shall continue to apply to contracts or task orders which are active at the time the class deviation expires. Authority to continue the use of such deviation beyond 2 years may be requested in accordance with the procedures prescribed in paragraph (a) of this section.

(6) Expiration dates shall be shown on all class deviations.

(c) Requests for deviation shall contain a complete description of the deviation, the effective date of the deviation, the circumstances in which the deviation will be used, a specific reference to the regulation being deviated from, an indication as to whether any identical or similar deviations have been approved in the past, a complete justification of the deviation including any added or decreased cost to the Government, the name of the contractor, and the contract or task order number.

(d) Register of deviations: Separate registers shall be maintained by the procuring activities of the deviations granted from the FAR and AIDAR. Each deviation shall be recorded in its appropriate register and shall be assigned a control number as follows: the symbol of the procuring activity, the abbreviation "DEV", the fiscal year, the serial number [issued in consecutive order during each fiscal year] assigned to the particular deviation and the suffix "c" if it is a class deviation,

e.g. CM-DEV-85-1, CM-DEV-85-2c. The control number shall be embodied in the document authorizing the deviation and shall be cited in all references to the deviation.

(e) Central record of deviations: Copies of approved deviations shall be furnished promptly to M/OP/P which shall be responsible for maintaining a central record of all deviations that are granted.

(f) Semiannual report of class deviations:

(1) AID contracting officers shall submit a semiannual report to the M/OP/P of all contract actions effected under class deviations to the FAR and AIDAR which have been approved pursuant to paragraph (b) of this section.

(2) The report shall contain the applicable deviation control number, the contractor's name, contract number and task order number (if appropriate).

(3) The report shall cover the 6-month periods ending June 30 and December 31, respectively, and shall be submitted within 20 working days after the end of the reporting period.

SUBPART 701.6 -- CONTRACTING AUTHORITY AND RESPONSIBILITY

701.601 General.

(a) Except as otherwise prescribed, the head of each contracting activity (as defined in section 702.170) is responsible for the procurement of supplies and services under or assigned to the procurement cognizance of his or her activity. The heads of AID contracting activities are vested with broad authority to carry out the programs and activities for which they are responsible. This authority includes authority to execute contracts and the establishment of procurement policies, procedures, and standards appropriate for their programs and activities, subject to Government-wide and AID requirements and restrictions (see subsection 701.376-4).

(b) The authority of heads of contracting activities to execute contracts is limited as follows:

(1) Director, Office of Procurement. Unlimited authority to execute contracts. May issue warrants for simplified acquisitions up to the amount permitted by FAR 13.101 and 13.103(b) to individuals on his or her staff (subject to termination in accordance with FAR 1.603-4).

(2) Director, Office of U.S. Foreign Disaster Assistance. Authority to execute contracts for disaster relief purposes during the first 72 hours of a disaster in a cumulative total amount not to exceed \$500,000. Authority to execute simplified acquisitions up to the amount permitted by FAR 13.101 and 13.103(b) at any time. May issue warrants for simplified acquisitions up to the amount permitted by FAR 13.101 and 13.103(b) to qualified individuals on his or her staff.

(3) Director, Office of Administrative Services. Authority to execute simplified acquisitions up to the amount permitted by FAR 13.101 and 13.103(b) for supplies and services, except professional non-personal services and personal services. Unlimited authority when ordering against GSA or other established U.S. Government ordering agreements. May issue warrants for simplified acquisitions up to the amount permitted by FAR 13.101 and 13.103(b) to qualified individuals on his or her staff.

(4) Director, Center for Human Capacity Development (G/HCD). Authority to execute simplified acquisitions up to \$10,000. Unlimited authority for procuring participant training based on published catalog prices, using M/OP/E approved forms. May issue warrants for simplified acquisitions up to \$10,000 to qualified individuals on his or her staff.

(5) Overseas heads of contracting activities. Authority to sign contracts where the cumulative amount of the contract, as amended, does not exceed \$250,000 (or local currency equivalent) for personal services

702.270-1 Definitions clause.

Authority: Sec. 621, Pub. L. 87-195, 75 Stat. 445, (22 U.S.C. 2381) as amended; E.O. 12163, Sept. 29, 1979, 44 FR 56673; 3 CFR 1979 Comp., p. 435.

SUBPART 702.170 -- DEFINITIONS

702.170-1 AID.

"AID" means the Agency for International Development and its predecessor agencies, including the International Cooperation Administration (ICA).

702.170-2 Administrator.

"Administrator" means the Administrator or Deputy Administrator of the Agency for International Development.

702.170-3 Contracting activities.

The contracting activities within AID are:

(a) The AID Washington activities. The contracting activities located in Washington are the Office of Procurement, Office of Administrative Services, Office of Foreign Disaster Assistance, and Center for Human Capacity Development (G/HCD). Subject to the limitations stated in 702.170-10, these contracting activities are responsible for procurement related to programs and activities for their areas. The Office of Procurement is responsible for procurements which do not fall within the responsibility of other contracting activities, or which are otherwise assigned to it.

(b) The overseas field contracting activities. Each AID Mission or post overseas is a contracting activity, responsible for procurement related to its programs and activities, subject to the limitations in 702.170-10(b), which sets forth the contracting authority for Mission Directors and principal AID officers at posts.

702.170-4 Cooperating country.

"Cooperating country" means a foreign country in which there is a program or activity administered by AID

702.170-5 Cooperating country national (CCN).

"Cooperating country national (CCN)" means an individual who is a cooperating country citizen or a non-cooperating country citizen lawfully admitted for permanent residence in the cooperating country.

702.170-6 Executive Agency.

"Executive agency" includes the Agency for International Development (AID) and its predecessor agencies, including the International Cooperation Administration.

702.170-7 Foreign Assistance Act.

"Foreign Assistance Act" means the Foreign Assistance Act of 1961, as amended (22 U.S.C., Chapter 32).

702.170-8 Government, Federal, State, local and political subdivisions.

As used in the FAR and AIDAR, these terms do not refer to foreign entities except as otherwise stated.

702.170-9 Head of the agency.

"Head of the agency" means, for AID, the Administrator, and the Deputy Administrator, and in accordance with the responsibilities and limitation set forth in 702.170-13(c)(4), the Agency Procurement Executive.

702.170-10 Head of the contracting activity.

(a) The heads of AID contracting activities are listed below.
The limits of their contracting authority are set forth in 701.601.

(1) AID/Washington Heads of Contracting Activities:

- (i) Director, Office of Procurement;
- (ii) Director, Office of Administrative Services;
- (iii) Director, Office of U.S. Foreign Disaster Assistance;
- (iv) Director, Center for Human Capacity Development (G/HCD).

(2) Overseas Heads of Contracting Activities: Each Mission Director or principal AID officer at post (e.g. AID Representative, AID Affairs Officer, etc.)

(b) Individuals serving in the positions listed in (a)(1) and (a)(2) in this section in an "Acting" capacity may exercise the authority delegated to that position.

702.170-11 Mission.

"Mission" means the AID mission or the principal AID office or representative (including an embassy designated to so act) in a foreign country in which there is a program or activity administered by AID.

702.170-12 Overseas.

"Overseas" means outside the United States, its possessions, and Puerto Rico.

702.170-13 Procurement Executive.

(a) "Procurement Executive" means the AID official who:

(1) Is responsible to the Administrator, through the Assistant Administrator for Management, for management direction of AID's procurement system, including implementation of AID's unique procurement policies, regulations, and standards, and

(2) Oversees development of the system, evaluates system performance in accordance with approved criteria, and certifies to the Administrator, through the Assistant Administrator for Management, that the AID procurement system meets approved criteria.

(b) The Procurement Executive for AID is Mr. Marcus L. Stevenson, the Director, Office of Procurement. Mr. Stevenson reports and makes recommendations to the Administrator, the Deputy Administrator, or other AID officials, as appropriate, with regard to the implementation and improvement of the

procurement system and procurement staffing to meet the objectives and requirements of the Foreign Assistance Act, Executive Order 12352, the Office of Federal Procurement Policy Act, and other statutory and Executive Branch procurement policies and requirements applicable to AID operations. These reports and recommendations, including results of case reviews requested by the Director, Office of Procurement, will deal with the use of effective competition in procurement; establishment of clear lines of authority, accountability, and responsibility for procurement decision making within AID; and development and maintenance of a procurement career management program to assure an adequate professional work force.

(c) The AID Procurement Executive has specific authority to:

(1) select and appoint contracting officers and terminate their appointments in accordance with Section 1.603 of the Federal Acquisition Regulation;

(2) issue, develop, and maintain the Agency's acquisition regulations, procedures and standards for issuance in accordance with established agency delegations and requirements, as provided in Subpart 1.3 of the Federal Acquisition Regulation;

(3) exercise in person or by delegation the authorities stated in Subpart 1.4 of the Federal Acquisition Regulation with regard to deviations from that regulation; and

(4) act for the Administrator, as "head of the agency" for all other purposes of the Federal Acquisition Regulation and the AID Acquisition Regulation, except for the authority in FAR 6.302-7(a)(2), 6.302-7(c)(1), 7.103, 17.602(a), 19.201(c)(2), 19.201(c)(3), 27.306(a), 27.306(b), and 30.201-5 or where the "head of the agency" authority is expressly not redelegable under the FAR or AIDAR.

702.170-14 Senior Procurement Executive.

"Senior Procurement Executive" is synonymous with the term "Procurement Executive", as defined in 702.170-13 of this subpart.

702.170-15 Third country national (TCN).

"Third country national (TCN)" means an individual who is neither a cooperating country national nor a U.S. national, but is a citizen of a Free World Country (i.e., Geographic Code 935).

702.170-16 U.S. national (USN).

"U.S. national (USN)" means an individual who is a U.S. citizen or a non-U.S. citizen lawfully admitted for permanent residence in the United States.

SUBPART 702.270 -- DEFINITIONS CLAUSE

702.270-1 Definitions clause.

Use the appropriate clause in subsection 752.202-1, in addition to the clause in FAR 52.202-1.

PART 703 -- IMPROPER BUSINESS PRACTICES AND PERSONAL CONFLICTS OF INTEREST

SUBPART 703.1 -- SAFEGUARDS

703.104-5 Disclosure, protection, and marketing of propriety and source
selection information.

SUBPART 703.4 -- CONTINGENT FEES

703.403 Applicability.

Authority: Sec. 621, Pub. L. 87-195, 75 Stat. 445, (22 U.S.C. 2381) as amended; E.O. 12163, Sept. 29, 1979, 44 FR 56673; 3 CFR 1979 Comp., p. 435.

PART 703 IMPROPER BUSINESS PRACTICES AND PERSONAL CONFLICTS OF
INTEREST

SUBPART 703.1 -- SAFEGUARDS

703.104-5 Disclosure, protection, and marking of proprietary and source
selection information.

A Contracting Officer may authorize release of proprietary and/or source
selection information outside the Government for evaluation purposes
pursuant to (FAR) 48 CFR 15.413-2, Alternative II, as implemented by
(AIDAR) 48 CFR 413-2, Alternate II.

SUBPART 703.4 -- CONTINGENT FEES

703.403 Applicability.

The exception stated in 48 CFR 3.404(b)(4) for contracts to be made in
foreign countries will not be used.

PART 704 -- ADMINISTRATIVE MATTERS

SUBPART 704.4 -- SAFEGUARDING CLASSIFIED INFORMATION WITHIN INDUSTRY

704.404 Contract clause.

SUBPART 704.8 -- CONTRACT FILES

704.803 Contents of contract files.

Authority: Sec. 621, Pub. L. 87-195, 75 Stat. 445, (22 U.S.C. 2381) as
amended; E.O. 12163, Sept. 29, 1979, 44 FR 56673; 3 CFR 1979 Comp., p.
435.

PART 704 -- ADMINISTRATIVE MATTERS

SUBPART 704.4 -- SAFEGUARDING CLASSIFIED INFORMATION WITHIN INDUSTRY

704.404 Contract clause.

If the contract involves access to classified ("Confidential", "Secret",
or "Top Secret"), or administratively controlled ("Limited Official
Use") information, use the contract clause in 752.204-2.

SUBPART 704.8 -- CONTRACT FILES

704.803 Contents of contract files.

(a) In order that the official contract file may contain a full
history of each procurement to support actions taken by various

personnel in the procurement cycle, provide information for reviews conducted by AID or others, supply data for use in preparing replies to Congressional inquiries, and furnish essential facts in the event of litigation, each such file shall contain the data required by 4.803 of the FAR, and the following additional data, as applicable:

- (1) A full record of negotiations (memorandum of negotiation) including, but not limited to:
 - (i) Participants,
 - (ii) Dates and places of meetings,
 - (iii) Selection of the successful contractor, including reasons for selection,
 - (iv) Agreements on Government-furnished materials, equipment, or facilities,
 - (v) Technical or financial recommendations,
 - (vi) Terms, conditions and type of contract agreed to,
 - (vii) Agreements on subcontracting,
 - (viii) Justification for fixed fee or profit, and
 - (ix) Justification for final cost or price;
- (2) Any required approvals and clearances (such as General Counsel, security, project office, Mission, Office of Small and Disadvantaged Business Utilization, Office of Information Resources Management, Communications Review Board);
- (3) Any exceptions or exemptions to the Buy American Act, Foreign Assistance Act, or AID's nationality policy (Part 725 or Part 25 of the FAR);
- (4) Copies of all amendments and task orders with supporting documents;
- (5) Copy of contractor's established policies and practices covering compensation, leave, work week, promotions, etc.;
- (6) Copy of contracting officer's decisions under the disputes clause FAR 33.011 ;
- (7) All other pertinent correspondence, documents and reports;
- (8) Financial release upon completion of the contract (release forms, 753.270-3.

AIDAR SUBCHAPTER B -- ACQUISITION PLANNING

PART 705 -- PUBLICIZING CONTRACT ACTIONS

705.002 Policy.

SUBPART 705.2 -- SYNOPSIS OF PROPOSED CONTRACT ACTIONS.

705.202 Exceptions.

705.207 Preparation and transmittal of certain synopses

Authority: Sec. 621, Pub. L. 87-195, 75 Stat. 445, (22 U.S.C. 2381) as amended; E.O. 12163, Sept. 29, 1979, 44 FR 56673; 3 CFR 1979 Comp., p. 435.

PART 705 -- PUBLICIZING CONTRACT ACTIONS

705.002 Policy.

AID's Office of Small and Disadvantaged Business Utilization maintains an AID Consultant Registry Information System (ACRIS), which serves as a reference source and an indication of a prospective contractor's interest in performing AID contracts. Prospective contractors are invited to file the appropriate form (Standard Forms 254/255, Architect-Engineer and Related Services Questionnaire; or AID Form 1420-50, AID Consultant Registry Information System (ACRIS) Organization and Individual Profile) with AID's Office of Small and Disadvantaged Business Utilization (Department of State, Agency for International Development, Washington, D.C. 20523-1414--Attention: Office of Small and Disadvantaged Business Utilization).

These forms should be updated annually.

SUBPART 705.2 -- SYNOPSIS OF PROPOSED CONTRACT ACTIONS.

705.202 Exceptions.

(a) [Reserved]

(b) The head of the Agency for International Development has determined after consultation with the Administrator for Federal Procurement Policy and the Administrator of the Small Business Administration, that advance notice is not appropriate or reasonable for contract actions described in 706.302-70(b)(1) through (b)(3).

(c) Advance notice is not required for contract actions undertaken in accordance with 706.302-71.

705.207 Preparation and transmittal of certain synopses.

The responsible contracting officer shall notify AID's Office of Small and Disadvantaged Business Utilization (OSDBU) at least seven business days before publicizing a solicitation in the Commerce Business Daily for an acquisition:

(a) Which is to be funded from amounts made available for development assistance or for assistance for famine recovery and development in Africa; and

(b) Which is expected to exceed \$100,000.
For exceptions, see 726.104.

PART 706 -- COMPETITION REQUIREMENTS

706.003 Definitions.

Subparts 706.1 - 706.2 [Reserved]

SUBPART 706.3 -- OTHER THAN FULL AND OPEN COMPETITION

706.302-5 Authorized or required by statute.

706.302-70 Impairment of foreign aid programs.

706.302-71 Small Disadvantaged Businesses.

706.303-1 Requirements.

SUBPART 706.5 -- COMPETITION ADVOCATES

706.501 Requirement.

Authority: Sec. 621, Pub. L. 87-195, 75 Stat. 445 (22 U.S.C. 2381), as amended; E.O. 12163, Sept. 29, 1979, 44 FR 56673; 3 CFR 1979 Comp., p. 435.

706.003 Definitions.

"Procuring activity" means "contracting activity", as defined in 702.170-3.

Subparts 706.1 - 706.2 [Reserved]

SUBPART 706.3 -- OTHER THAN FULL AND OPEN COMPETITION

706.302-5 Authorized or required by statute.

Annual appropriations acts authorize AID to contract with certain disadvantaged enterprises using other than full and open competition. The provisions implementing this authority are set forth in 706.302-71 and part 726.

706.302-70 Impairment of foreign aid programs.

(a) Authority.

(1) Citation: 40 U.S.C. 474.

(2) Full and open competition need not be obtained when it would impair or otherwise have an adverse effect on programs conducted for the purposes of foreign aid, relief, and rehabilitation.

(b) Application.

This authority may be used for:

(1) An award under Section 636(a)(3) of the Foreign Assistance Act of 1961, as amended, involving a personal services contractor serving abroad;

(2) An award of \$250,000 or less by an overseas contracting activity;

(3)(i) An award for which the Assistant Administrator responsible for the project or program makes a formal written determination, with supporting findings, that compliance with full and open competition procedures would impair foreign assistance objectives, and would be inconsistent with the fulfillment of the foreign assistance program; or

(ii) Awards for countries, regions, projects, or programs for which the Administrator of AID makes a formal written determination, with supporting findings, that compliance with full and open competition procedures would impair foreign assistance objectives, and would be inconsistent with the fulfillment of the foreign assistance program.

(4) Awards under AIDAR 715.613-70 (Title XII selection procedure-general) or 715.613-71 (Title XII selection procedure-collaborative assistance).

(5) An award for the continued provision of highly specialized services when award to another resource would result in substantial additional costs to the government or would result in unacceptable delays.

(c) Limitations.

(1) Offers shall be requested from as many potential offerors as is practicable under the circumstances. While the authority at 706.302-70(b)(5) is for use when the contracting officer determines that the

incumbent contractor is the only practicable, potential offeror, the requirement to publicize the intended award, as required in FAR 5.201, still applies.

(2) The contract file must include appropriate explanation and support justifying the award without full and open competition, as provided in FAR 6.303, except that determinations made under 706.302-70(b)(3) will not be subject to the requirement for contracting officer certification or to approvals in accord with FAR 6.304.

(3) The authority in 706.302-70(b)(3)(i) shall be used only when no other authority provided in FAR 6.302 or AIDAR 706.302 is suitable. The specific foreign assistance objective which would be impaired must be identified and explained in the written determination and finding. Prior consultation with the Agency Competition Advocate (see 706.501) is required before executing the written determination and finding, and this consultation must be reflected in the determination and finding.

(4) Use of the authority in 706.302-70(b)(5) is subject to the approvals required in FAR 6.304. In addition, for proposed awards in excess of one year or over \$250,000, approval of the Agency Competition Advocate is required.

706.302-71 Small Disadvantaged Businesses.

(a) Authority.

(1) Citation: Fiscal year 1993 Foreign Operations, Export Financing, and Related Programs Appropriations Act, Sec. 563.

(2) Except to the extent otherwise determined by the Administrator, not less than ten percent of amounts made available for development assistance and for assistance for famine recovery and development in Africa shall be used only for activities of disadvantaged enterprises (as defined in 726.7002). In order to achieve this goal, AID is authorized to use other than full and open competition to award contracts to small business concerns owned and controlled by socially and economically disadvantaged individuals (small disadvantaged businesses as defined in 726.7002), historically black colleges and universities, colleges and universities having a student body of which more than 40 percent of the students are Hispanic Americans, and private voluntary organizations which are controlled by individuals who are socially and economically disadvantaged, as the terms are defined in 726.7002.

(b) Application. This authority may be used only if the Agency determines in accordance with 726.7004 that:

(1) The acquisition is to be funded from amounts referred to in paragraph (a)(2) of this section;

(2) Award of the acquisition to an eligible organization is appropriate to meet the requirement in paragraph (a)(2) of this section; and

(3) After considering whether the acquisition can be made under the authority of Section 8(a), award under Section 8(a) is not practicable.

(c) Limitations.

(1) Offers shall be requested from as many potential offerors as is practicable under the circumstances.

(2) Use of this authority is not subject to the requirements in FAR 6.303 and FAR 6.304, provided that the contract file includes a certification by the contracting officer stating that the procurement is being awarded pursuant to 706.302-71 and that the application requirements and limitations of 706.302-71(b) and (c) have been complied with. (See FAR 6.303 and FAR 6.304)

706.303-1 Requirements.

(a)-(c) [Reserved]

(d) AID project procurements are generally not subject to the Trade Agreements Acts of 1979 (see 725.403 of this chapter). To the extent procurements are made under the authority of FAR 6.302-3(a)(2)(i) or FAR 6.302-7 with Operating Expenses (OE) Funds, the Contracting Officer shall send

a copy of the justification to the Office of the United States Trade Representative, 600 17th Street, N.W., Washington, D.C. 20506,
ATTN: Director, International Procurement Policy.
(See FAR 6.302)

SUBPART 706.5 -- COMPETITION ADVOCATES

706.501 Requirement.

The AID Administrator delegated the authority to designate the agency competition advocate and a competition advocate for each agency procuring activity (see 706.003 of this part) to the AID Procurement Executive. The AID Procurement Executive, under the Administrator's delegation, has designated the M/OP Deputy Director for Policy, Evaluation and Support as the Agency's competition advocate and the deputy head (or equivalent) of each contracting activity as the competition advocate for each activity. The competition advocate for M/OP is the Deputy Director for Operations. If there is no deputy or equivalent, the head of the contracting activity is designated the competition advocate for that activity. The competition advocate's duties may not be redelegated, but can be exercised by persons serving as acting deputy (or acting head) of the contracting activity. For definitions of contracting activity and head of contracting activity, see 702.170-3 and 702.170-10, respectively.

PART 707 -- ACQUISITION PLANNING

SUBPART 707.1 -- ACQUISITION PLANS [RESERVED]

[RESERVED]

PART 708 -- REQUIRED SOURCES OF SUPPLIES AND SERVICES

Authority: Sec. 621, Pub. L. 87-195, 75 Stat. 445, (22 U.S.C. 2381) as amended; E.O. 12163, Sept. 29, 1979, 44 FR 56673; 3 CFR 1979 Comp., p. 435.

SUBPART 708.1 -- EXCESS PERSONAL PROPERTY

708.102-70 Policy.

See AID Handbook 16, Excess Property.

PART 709 -- CONTRACTOR QUALIFICATIONS

SUBPART 709.4 -- DEBARMENT, SUSPENSION AND INELIGIBILITY

709.402 Policy.

SUBPART 709.5 -- ORGANIZATIONAL CONFLICTS OF INTEREST

709.503 Waiver.

709.507-2 Contract Clause

Authority: Sec. 621, Pub. L. 87-195, 75 Stat. 445, (22 U.S.C. 2381) as amended; E.O. 12163, Sept. 29, 1979, 44 FR 56673; 3 CFR 1979 Comp., p. 435.

SUBPART 709.4 -- DEBARMENT, SUSPENSION AND INELIGIBILITY

709.402 Policy.

The policies and procedures governing the debarment, suspension, and

ineligibility of "government procurement" contractors and suppliers are set forth in the Federal Acquisition Regulation, 48 CFR, subpart 9.4. For debarment and suspension of these government procurement contractors and suppliers AID applies the procedures set forth in 22 CFR Part 208, which is also AID's regulation for the debarment, suspension, and ineligibility of awardees of agreements other than government procurement contracts.

SUBPART 709.5 -- ORGANIZATIONAL CONFLICTS OF INTEREST

709.503 Waiver.

For purposes of approving waivers or redelegating the authority to approved waivers pursuant to FAR 9.503, the AID Procurement Executive is the Agency head (see AIDAR 702.170-13(c)(4)). The Procurement Executive had redelegated the authority to approve waivers pursuant to FAR 9.503 to the heads of contracting activities in AID, as defined in AIDAR 702.170-10.

709.507-2 Contract clause.

(a) - (b) [Reserved]

(c) In order to avoid problems from organizational conflicts of interest that may be discovered after award of a contract, the clause found at 752.209-71 should be inserted in all contracts whenever the solicitation includes one of the FAR organizational conflict of interest solicitation clauses, FAR 52.209-7 or 52.209-8.

PART 711 -- DESCRIBING AGENCY NEEDS

711.002-71 Solicitation provisions and contract clauses.

711.022-70 Metric system waivers.

Authority: Sec. 621, Pub. L. 87-195, 75 Stat. 445, (22 U.S.C. 2381) as amended; E.O. 12163, Sept. 29, 1979, 44 FR 56673; 3 CFR 1979 Comp., p. 435.

PART 711 -- DESCRIBING AGENCY NEEDS

711.002-71 Solicitation provisions and contract clauses.

The contracting officer shall insert the clause at 752.211-70 in all AID-direct solicitations and contracts.

711.022-70 Metric system waivers.

(a) Criteria. The FAR 11.002(b) requirement to use the metric system of measurement for specifications and quantitative data that are incorporated in or required by AID contracts may be waived when AID determines in writing that such usage is impractical or is likely to cause U.S. firms to experience significant inefficiencies or the loss of markets.

(b) Authorization.

(1) The AID Metric Executive (M/AS), the contracting officer, and the AID official who approves the procurement requirement are authorized to waive the metric requirement for one of the above reasons. The AID Metric Executive is authorized to overrule a decision to grant a waiver, or to nullify a blanket waiver made by another approving official so long as a contractor's rights under an executed contract are not infringed upon.

(2) A blanket waiver for a class of multiple transactions may be issued for a term not to exceed three years.

(3) When a waiver will be based upon the adverse impact on U.S. firms, clearance from the AID Metric Executive (M/AS) and the Office of Small and Disadvantage Business Utilization (SDB) will be obtained prior to authorization.

(c) Records and reporting.

(1) The basis for each waiver and any plans to adapt similar

requirements to metric specifications in future procurements should be documented in the contract file.

(2) Each procurement activity will maintain a log of the waivers from the metric requirements which are authorized for its procurements. The logs shall list the commodity/service being procured, total dollar value of the procured item(s), waiver date, authorizing official, basis for waiver, and AID actions that can promote metrication and lessen the need for future waivers.

(3) Within 30 days of the closing of each fiscal year, each AID/W procurement activity and each Mission will submit a copy of the metric waiver log for the year to the AID Metric Executive. (Mission logs are to be consolidated in a Mission report for the procurement activity and for the nonprocurement activities maintaining such logs under the AID Metric Transition Plan.) Repetitive purchases of commercially produced and marketed items may be consolidated in reporting procurements that do not exceed \$10,000 cumulatively during the reporting period.

SUBCHAPTER C -- CONTRACTING METHODS AND CONTRACT TYPES

PART 713 -- SIMPLIFIED ACQUISITION PROCEDURES

713.000 Scope of part.

Subpart 713.1--General

713.101 Definitions.

Authority: Sec. 621, Pub. L. 87-195, 75 Stat. 445, (22 U.S.C. 2381) as amended; E.O. 12163, Sept. 29, 1979, 44 FR 56673; 3 CFR 1979 Comp., p. 435.

713.000 Scope of part.

The simplified acquisition threshold applies to the cost of supplies and services, exclusive of the cost of transportation and other accessorial costs if their destination is outside the United States.

Subpart 713.1--General

713.101 Definitions.

Accessorial costs means the cost of getting supplies or services to their destination in the cooperating country (and the travel costs of returning personnel to the U.S. or other point of hire). It does not include costs such as allowances or differentials related to maintaining personnel at post which are to be considered as part of the base costs within the simplified acquisition threshold.

PART 714 -- SEALED BIDDING

SUBPART 714.4 -- OPENING OF BIDS AND AWARD OF CONTRACT

714.406-3 Other mistakes disclosed before award.

714.406-4 Disclosure of mistakes after award.

Authority: Sec. 621, Pub. L. 87-195, 75 Stat. 445, (22 U.S.C. 2381) as amended; E.O. 12163, Sept. 29, 1979, 44 FR 56673; 3 CFR 1979 Comp., p. 435.

PART 714 -- SEALED BIDDING

SUBPART 714.4 -- OPENING OF BIDS AND AWARD OF CONTRACT

714.406-3 Other mistakes disclosed before award.

The Procurement Executive is the designated central authority to make the determinations described in FAR 14.406-3.

714.406-4 Disclosure of mistakes after award.

The Procurement Executive is the designated central authority to make the

determinations described in FAR 14.406-4.

PART 715 -- CONTRACTING BY NEGOTIATION

SUBPART 715.4 -- SOLICITATION AND RECEIPT OF PROPOSALS AND QUOTATIONS

715.413-2 Alternate II

SUBPART 715.5 -- UNSOLICITED PROPOSALS

715.502 Policy
715.504 Advance Guidance
715.506 Agency Procedures and Point of Contact

SUBPART 715.6 -- SOURCE SELECTION

715.604 Responsibilities.
715.604-70 Responsibilities of AID evaluation committees.
715.605 Reserved
715.613 Alternative source selection procedures.
715.613-70 Title XII selection procedure -- general.
715.613-71 Title XII selection procedure -- collaborative assistance.

Authority: Sec. 621, Pub. L. 87-195, 75 Stat. 445, (22 U.S.C. 2381) as amended;
E.O. 12163, Sept. 29, 1979, 44 FR 56673; 3 CFR 1979 Comp., p. 435.

SUBPART 715.4 -- SOLICITATION AND RECEIPT OF
PROPOSALS AND QUOTATIONS

715.413-2 Alternate II

(a) A contracting officer may, subject to the requirements of this section and (FAR) 48 CFR 15.413-2, authorize release of proposals outside the Government for evaluation:

(1) When an evaluation assistance contractor (EAC) is required to provide technical advisory or other services relating to the evaluation of proposals; or

(2) When an individual other than a Government employee, known as a non-Government evaluator (NGE), is selected to serve as a member of an AID technical evaluation committee.

(b) Prior to releasing proposals outside the Government for evaluation, the contracting officer shall obtain a signed and dated copy of a certification and agreement from each NGE and EAC. See paragraph (c).

(c) A certification and agreement substantially as follows:

CERTIFICATION AND AGREEMENT FOR THE USE AND DISCLOSURE OF PROPOSALS

With respect to proposals submitted in response to AID solicitation no. _____, the undersigned hereby agrees, and/or certifies, to the following:

1. I will use the proposals, and all information therein other than information otherwise available without restriction, for evaluation purposes only. I will safeguard the proposals, and will not remove them from the site at which the evaluation is conducted unless authorized by the Contracting Officer. In addition, I will not disclose them, or any information contained in them (other than information otherwise available without restriction), except as directed or approved by the Contracting Officer.

2. I will ensure that any authorized restrictive legends

placed on the proposals by prospective contractors or subcontractors, or AID, will be applied to any reproduction, or abstract of information, made by me.

3. Upon completing the evaluation, I will return all copies of the proposals, and any abstracts thereof, to the AID office which initially furnished them to me.

4. Unless authorized by the contracting officer in advance in writing, I will not, -- whether before, during, or after the evaluation -- contact any prospective contractor or subcontractor, or their employees, representatives or agents, concerning any aspect of the proposal.

5. I have carefully reviewed my employment (past, present and under consideration) and financial interests, as well as those of my household family members. Based on this review, I certify, to the best of my knowledge and belief as of the date indicated below, that I either (1) have no actual or potential conflict of interest, personal or organizational, that could diminish my capacity to perform an impartial and objective evaluation of the proposals, or that might otherwise result in an unfair competitive advantage to one or more prospective contractors or subcontractors, or (2) have fully disclosed all such conflicts to the contracting officer, and will comply fully, subject to termination of my evaluation services, with any instructions by the contracting officer to mitigate, avoid, or neutralize conflicts(s). I understand that I will also be under a continuing obligation to disclose, and act as instructed concerning, such conflicts discovered at any time prior to the completion of the evaluation.

Signature: _____
Name Typed
or Printed: _____
Date: _____

(2) An Optional form 333, Procurement Integrity
Certification for Procurement Officials, as required by FAR 15.413-2(f)
(6). The words "leave the Government" in the fourth sentence of that
form mean "cease to function as a procurement official."

SUBPART 715.5 -- UNSOLICITED PROPOSALS

715.502 Policy.

(a) AID encourages the submission of unsolicited proposals which contribute new ideas consistent with and contributing to the accomplishment of the Agency's objectives. However, the requirements for contractor resources are normally quite program specific, and thus widely varied, and must be responsive to host country needs. Further, AID's projects are usually designed in collaboration with the cooperating country. These factors can limit both the need for, and AID's ability to use unsolicited proposals. Therefore, prospective offerors are encouraged to contact AID to determine the Agency's technical and geographical requirements as related to the offeror's interests before preparing and submitting a formal unsolicited proposal.

(b) AID's basic policies and procedures regarding unsolicited proposals are those established in FAR 15.5 and this Subpart.

(c) For detailed information on unsolicited proposals, see 715.504; for initial contact point within AID, see 715.506.

715.504 Advance guidance.

(a) Information concerning USAID's policies for unsolicited proposals is available from the U.S. Agency for International Development, Office of Procurement, Evaluation Division, Room 1600H, SA-14, Washington, DC

20523-1435.

- (b) The information available concerns:
 - (1) Contact points within AID;
 - (2) Definitions;
 - (3) Characteristics of a suitable proposal;
 - (4) Determination of contractor responsibility;
 - (5) Organizational conflict of interest;
 - (6) Cost sharing; and
 - (7) Procedures for submission and evaluation of proposals.

715.506 Agency procedures and point of contact.

Initial inquiries and subsequent unsolicited proposals should be submitted to the address specified in section 715.504 of this subpart.

715.506-1 Receipt, and initial review.

AID follows the policies and procedures established in FAR 15.506-1 and 15.506-2.

SUBPART 715.6 -- SOURCE SELECTION

715.604 Responsibilities.

715.604-70 Responsibilities of AID evaluation committees.

(a) Establishment and composition of AID evaluation committees. A technical evaluation committee shall be established for each proposed procurement. In each case, the committee shall be composed of a chair representing the cognizant technical office, a representative of the contracting office (who shall be a non-voting member of the committee), and representatives from other concerned offices as appropriate.

(b) Technical evaluation procedures.

(1) The contracting officer will receive all proposals and provide to the chair a listing and copies of the technical proposals and instructions for conducting the evaluation.

(2) The chair will promptly call a meeting of the committee to evaluate the proposals received. The evaluation shall be based on the evaluation factors set forth in the solicitation document.

(3) The chair shall prepare and provide to the contracting officer written documentation summarizing the results of the evaluation of each proposal, including an assessment of past performance information in accordance with FAR 15.608(a)(2) and section 752.209-70. The documentation shall include narrative justification of the evaluation results and shall reflect the requirements of FAR 15.608(a)(3).

(4) The contracting officer is responsible for reviewing the documentation justifying the evaluation results to determine that it is adequate and complete. The contracting officer shall return a justification determined to be inadequate to the chair for revision.

(5) No member of the AID evaluation committee shall hold discussions with any offeror before or during the AID evaluation committee's proceedings, nor shall any information about the proposals be provided to anyone not on the committee without first obtaining the contracting officer's consent.

715.605 [Reserved]

715.613 Alternative source selection procedures.

715.613-70 Title XII selection procedure -- general.

(a) General. The Deputy Administrator has determined, as

provided in AIDAR 706.302-70(b)(3)(ii) that use of this Title XII source selection procedure is necessary so as not to impair or affect AID's ability to administer Title XII of the Foreign Assistance Act. This determination is reflected in AIDAR 706.302-70(b)(4). This constitutes authority for other than full and open competition when selecting Title XII institutions to perform Title XII projects.

(b) Scope of subsection. This subsection prescribes policies and procedures for the selection of institutions eligible under Title XII of the Foreign Assistance Act of 1961, as amended, to perform activities authorized under Title XII.

(c) Applicability. The provisions of this subsection are applicable when the project office certifies that the activity is authorized under Title XII, and determines that use of the Title XII selection procedure is appropriate.

(d) Solicitation, evaluation, and selection procedures.

(1) Competition shall be sought among eligible Title XII institutions to the maximum practicable extent; this requirement shall be deemed satisfied when a contractor is selected under the procedures of this subsection.

(2) The project office shall:

(i) Prepare selection criteria for evaluation of eligible institutions for use in preparing the source list, determining predominantly qualified sources, and selecting the contractor;

(ii) Prepare an initial list of eligible institutions considered qualified to perform the proposed activity;

(iii) Provide a statement describing qualifications and areas of expertise considered essential, a statement of work, estimate of personnel requirements, special requirements (logistic support, government furnished property, and so forth) for the contracting officer's use in preparing the request for technical proposal (RFTP).

(iv) Send a memorandum incorporating the certification and determination required by paragraph (c) of this section, together with the information required by paragraphs (d)(2)(i) through (iii) of this section, with the "Action" copy of the PIO/T to the contracting officer, requesting him/her to prepare and distribute the RFTP.

(3) Upon receipt and acceptance of the project officer's request, the contracting officer shall prepare the RFTP. The RFTP shall contain sufficient information to enable an offeror to submit a responsive and complete technical proposal. This includes a definitive statement of work, an estimate of the personnel required, and special provisions (such as logistic support, government furnished equipment, and so forth), a proposed contract format, and evaluation criteria. No cost or pricing data will be requested or required by the RFTP. The RFTP will be distributed to the eligible institutions recommended by the project office. The RFTP will be synopsized, as required by FAR 5.201, and will normally allow a minimum of 60 days for preparation and submission of a proposal.

(4) Upon receipt of responses to the RFTP by the contracting officer, an evaluation committee will be established as provided for in 715.608 of this subpart.

(5) The evaluation committee will evaluate all proposals in accordance with the criteria set forth in the RFTP, and will prepare a selection memorandum which shall:

(i) State the evaluation criteria;

(ii) List all of the eligible institutions whose proposals were reviewed;

(iii) Report on the ranking and rationale therefor for all proposals;

(iv) Indicate the eligible institution or institutions considered best qualified.

(6) The evaluation committee will submit the selection memorandum to the contracting officer for review and approval.

(7) The contracting officer will either approve the selection memorandum, or return it to the evaluation committee for reconsideration for specified reasons.

(8) If the selection memorandum is approved, the contracting officer shall obtain cost, pricing, and other necessary data from the recommended institution or institutions and shall conduct negotiations. If a satisfactory contract cannot be obtained, the contracting officer will so advise the evaluation committee. The evaluation committee may then recommend an alternate institution or institutions.

715.613-71 Title XII selection procedure -- collaborative assistance.

(a) General. The Deputy Administrator has determined, as provided in AIDAR 706.302-70(b)(3)(ii) that use of this Title XII source selection procedure is necessary so as not to impair or affect AID's ability to administer Title XII of the Foreign Assistance Act. This determination is reflected in AIDAR 706.302-70(b)(4). This constitutes authority for other than full and open competition when selecting Title XII institutions to perform Title XII projects.

(b) Scope of subsection. This subsection prescribes policies and procedures for the selection of institutions eligible under Title XII of the Foreign Assistance Act of 1961, as amended, to perform activities authorized under Title XII, where AID has determined that use of the collaborative assistance contracting system is appropriate.

(c) Definition.

(1) A collaborative assistance project is any project for which it has been determined under paragraph (e) of this subsection that:

(i) A continuing collaborative relationship between AID, the host country, and the contractor is required from project design through completion of the project. AID, host country, and contractor participation in a continuing review and evaluation of the project is essential for its proper execution; and

(ii) The activity is authorized under Title XII.

(2) The collaborative assistance method is fully defined and discussed in AIDAR Appendix F -- Use of Collaborative Assistance Method for Title XII Activities.

(d) Applicability. The provisions of this subsection are applicable when the project office makes the determinations required by paragraph (c)(1) of this section.

(e) Determination. In order to prepare a contract under the collaborative assistance method, the determinations in paragraph (c)(1) of this section must be made in accordance with the following procedures:

(1) The responsible project office makes a preliminary finding that an activity is authorized by Title XII and should be classed as collaborative assistance in accordance with paragraph (c)(1) of this section.

(2) Based upon this preliminary finding, the project office shall establish an evaluation panel consisting of a representative of the project office as chairman, a representative of the contracting officer, and any other representatives considered appropriate by the chairman.

(3) The evaluation panel will review the proposed project; based on the panel's findings, the chairman will make the formal, written determinations required by paragraph (c)(1) of this section.

(f) Evaluation and selection.

(1) Competition shall be sought among eligible Title XII institutions to the maximum practicable extent; this requirement shall be deemed satisfied when a contractor is selected under the procedures of this section.

(2) The evaluation panel shall:

(i) Prepare evaluation and selection criteria;

(ii) Prepare an initial source list of eligible institutions considered qualified to perform the proposed project; and

(iii) Evaluate the list, using the evaluation criteria previously determined, for the purpose of making a written determination of the sources considered most capable of performing the project.

(3) The chairman of the evaluation panel will prepare a memorandum requesting the contracting officer to prepare a request for expressions of interest from qualified sources and setting forth:

(i) The formal determinations required by paragraph (b)(1) of

this section:

- (ii) The evaluation criteria which have been determined; and
- (iii) The recommended source list and the rationale

therefor.

(4) The contracting officer will prepare a request for an expressions of interest (REI), containing sufficient information to permit an offeror to determine its interest in the project, and to discuss the project with AID representatives, if appropriate. The request for expression of interest should include a concise statement of the purpose of the project, any special conditions or qualifications considered important, a brief description of the selection procedure and evaluation criteria which will be used, the proposed contract format, and any other information considered appropriate. The REI will be issued to the sources recommended by the panel, and to others, as appropriate; it will be synopsized, as required by FAR 5.201, and it will normally allow a minimum of 60 days for preparation of an expression of interest. Guidelines for preparation of expressions of interest are contained in Attachment 1 to AIDAR Appendix F. (See FAR 5.201)

(5) The contracting officer will transmit all expressions of interest to the evaluation panel for evaluation and selection recommendation. The panel may conduct on site evaluations at its discretion, as part of the evaluation process.

(6) The chairman of the evaluation panel will prepare a written selection recommendation with supporting justification, recommending that negotiations be conducted with the prospective contractor(s) selected by the evaluation panel. The selection recommendation shall be transmitted to the contracting officer together with the complete official file on the project which was being maintained by the evaluation panel.

(7) The contracting officer will review the selection recommendation, obtain necessary cost and other data, and proceed to negotiate with the recommended sources.

PART 716 -- TYPES OF CONTRACTS

SUBPART 716.3 -- COST REIMBURSEMENT CONTRACTS

716.303 Cost-sharing contracts

716.306 Cost-plus-fixed-fee contracts

SUBPART 716.5 [Reserved]

Authority: Sec. 621, Pub. L. 87-195, 75 Stat. 445, (22 U.S.C. 2381) as amended: E.O. 12163, Sept. 29, 1979, 44 FR 56673; 3 CFR 1979 Comp., p. 435.

PART 716 -- TYPES OF CONTRACTS

SUBPART 716.3 -- COST-REIMBURSEMENT CONTRACTS

716.303 Cost-sharing contracts

(a) - (b) [Reserved]

(c) Limitations. In addition to the limitations specified in FAR 16.301-3, prior approval of the AID Procurement Executive (see 702.170-13) is required in order to use a cost-sharing contract with an educational institution.

716.306 Cost-plus-fixed-fee contracts.

(a)-(b) [Reserved]

(c) The Contracting Officer is authorized to sign the D&F specified in FAR 16.306(c)(2).

SUBPART 716.5 -- [Reserved]

PART 717 -- SPECIAL CONTRACTING METHODS

Authority: Sec. 621, Pub. L. 87-195, 75 Stat. 445, (22 U.S.C. 2381) as amended; E.O. 12163, Sept. 29, 1979, 44 FR 56673; 3 CFR 1979 Comp., p. 435.

SUBPART 717.70 -- PHARMACEUTICAL PRODUCTS

717.700 General.

Section 606(c) of the Foreign Assistance Act bars procurement by the Government of drug and pharmaceutical products manufactured outside the United States if their manufacture involves the use of or is covered by an unexpired U.S. patent which has not been held invalid by an unappealed or unappealable court decision unless the manufacture is expressly authorized by the patent owner. Applicable policies and procedures are set forth in AID Automated Directive System Chapter 312.

AIDAR SUBCHAPTER D -- SOCIOECONOMIC PROGRAMS

PART 719 -- SMALL BUSINESS AND SMALL DISADVANTAGED BUSINESS CONCERNS

SUBPART 719.2 -- POLICIES

- 719.270 Small business policies.
- 719.271 Agency program direction and operation.
- 719.271-1 General.
- 719.271-2 The AID Office of Small and Disadvantaged Business Utilization (SDB).
- 719.271-3 AID contracting officers.
- 719.271-4 Heads of Contracting Activities.
- 719.271-5 Program/project officers.
- 719.271-6 Small business screening procedure.
- 719.271-7 Reports on procurement actions that are exempted from screening.
- 719.272 Small disadvantaged business policies.

Authority: Sec. 621, Pub. L. 87-195, 75 Stat. 445, (22 U.S.C. 2381) as amended; E.O. 12163, Sept. 29, 1979, 44 FR 56673; 3 CFR 1979 Comp., p. 435.

SUBPART 719.2 -- POLICIES

- 719.270 Small business policies.
 - (a) In keeping with section 602 of the Foreign Assistance Act of 1961 (22 U.S.C. 2352), as amended, AID shall, insofar as practicable and to the maximum extent consistent with the accomplishment of the purposes of said Act, assist United States small business to participate equitably in the furnishing of supplies and services for Foreign Assistance activities.
 - (b) It is the policy of AID to:
 - (1) Fully endorse and carry out the Government's small business program for placing a fair proportion of its purchases and contracts for supplies, construction (including maintenance and repair), research and development, and services (including personal, professional, and technical services) with small business, including minority small business concerns; and
 - (2) Increase their participation in AID procurement.
 - (c) In furtherance of this policy:
 - (1) Cognizant technical officers shall make positive efforts (see 719.271-5) to identify potentially qualified small and minority business firms during precontract development of activities and shall, with the responsible contracting officers, assure that such firms are given full opportunity to participate equitably;
 - (2) Small business set-asides shall be made for all contracts to be executed in AID/Washington which qualify for small business set-aside action under Part 19 of the FAR; and
 - (3) Consideration shall be given in appropriate cases to the award of the contract to the Small Business Administration for subcontracting to small business firms pursuant to section 8(a) of the Small Business Act (15 U.S.C. 637(a)).
 - (d) This program shall be implemented by all AID/Washington contracting activities in order to attain these policy objectives. In accordance with 719.271, all AID/ Washington direct-procurement requirements which exceed the simplified acquisition threshold [FAR 13.101 and 13.103(b)] shall be screened for small business opportunities by the Office of Small and Disadvantaged Business Utilization (SDB) except those exempted by 719.271-6(a).
 - (e) Where practicable and desirable, small business and minority

business enterprise award goals will be established for the respective AID/Washington procuring activities to provide incentive for contracting personnel to increase awards to small firms. The goals will be set by SDB after consultation with the respective head of the contracting activity (see subsection 702.170-10).

(f) In the event of a disagreement between SDB and the contracting officer concerning:

(1) A recommended set-aside, or
(2) A request for modification or withdrawal of a class or individual set-aside, complete documentation of the case including the reasons for disagreement shall be transmitted within five working days to the head of the contracting activity (see 719.271-6(e)) for a decision. Procurement action shall be suspended pending a decision.

(g) The above suspension shall not apply where the contracting officer:

(1) Certifies in writing, with supporting information, that in order to protect the public interest award must be made without delay;
(2) Promptly provides a copy of said certification to SDB; and
(3) Includes a copy of the certification in the contract file.

(h) SDB shall be the Small Business Advisor and Minority Business Procurement Policy Manager for all AID/Washington procuring activities.

(i) The details on the Agency's direction and operation of the small business program are set forth in 719.271.

(j) No decision rendered, or action taken, under the coverage set forth in 719.271 shall preclude the Small Business Administration from appealing directly to the AID Administrator as provided for in Part 19 of the FAR.

(k) SDB may delegate the responsibilities set forth in 719.271-2 (b) (8), (9), and (17) to the Director, Office of Administrative Services with the power to redelegate. The delegation shall cover only supplies and services authorized to be procured by the Office of Administrative Services. Responsibilities not delegated are reserved to SDB.

719.271 Agency program direction and operation.

719.271-1 General.

The purpose of this section is to prescribe responsibilities and procedures for carrying out the small business program policy set forth in 219.270, and in Part 19 of the FAR. Small business concerns are defined in FAR Subpart 19.1; in addition, small business concerns are concerns organized for profit. Nonprofit organizations are not considered small business concerns. Small disadvantaged business enterprises are defined in FAR Subpart 19.1. Small disadvantaged business enterprises are included in the term "small business" when used in this subpart; specific reference to disadvantaged business enterprises is for added emphasis.

719.271-2 The AID Office of Small and Disadvantaged Business Utilization (SDB).

(a) SDB is responsible for administering, implementing, and coordinating the Agency's small business (including minority business enterprises) program.

(b) SDB, headed by the Director, SDB, who also serves as the Minority Business Procurement Manager, shall be specifically responsible for:

(1) Developing policies, plans, and procedures for a coordinated Agency-wide small business and minority business enterprise procurement program;

(2) Advising and consulting regularly with AID/Washington procuring activities on all phases of their small business program, including, where practicable and desirable, the establishment of small business and minority business enterprise award goals;

(3) Collaborating with officials of the Small Business Administration (SBA), other Government Agencies, and private organizations on

matters affecting the Agency's small business program;

(4) Developing and maintaining an AID Consultant Registry Information System (ACRIS) of bidders/offerors (annotated to identify small business and minority business enterprise firms) capable of furnishing services for use by the AID contracting activities;

(5) Cooperating with contracting officers in administering the performance of contractors subject to the Small Business and Minority Business Enterprises Subcontracting Program clauses.

(6) Developing a plan of operation designed to increase the share of contracts awarded to small business concerns, including small minority business enterprises;

(7) Establishing small business class set-aside for types and classes of items of services where appropriate;

(8) Reviewing each procurement requisition to make certain individual or class set-asides are initiated on all suitable AID/Washington proposed contract actions in excess of the simplified acquisition threshold [FAR 13.101 and 13.103(b)] which are subject to screening (see 719.271-6);

(9) Maintaining a program designed to:

(i) Locate capable small business sources for current and future procurements through GSA and other methods.

(ii) Utilize every source available to determine if an item is obtainable from small business; and

(iii) Develop adequate small business competition on all appropriate procurements;

(10) Taking action to assure that unnecessary qualifications, restrictive specifications, or other features (such as inadequate procurement lead time) of the programming or procurement process, which may prevent small business participation in the competitive process, are modified to permit such participation where an adequate product or service can be obtained;

(11) Recommending that portions of large planned procurements or suitable components of end items or services be purchased separately so small firms may compete;

(12) On proposed non-competitive procurements, recommending to the contracting officer that the procurement be made competitive when, in the opinion of SDB, there are small business or minority business enterprises believed competent to furnish the required goods or services, and supplying the contracting officer a list of such firms;

(13) Assisting small business concerns with individual problems;

(14) Promoting increased awareness by the technical staff of the availability of small business firms;

(15) Making available to GSA copies of solicitations when so requested;

(16) Counseling non-responsive or non-responsible small business bidders/offerors to help them participate more effectively in future solicitations; and

(17) Examining bidders lists to make certain small business firms are appropriately identified and adequately represented for both negotiated and advertised procurements.

719.271-3 AID contracting officers.

With respect to procurement activities within their jurisdiction, contracting officers are responsible for:

(a) Being thoroughly familiar with Part 19 of the FAR and this section dealing with the small business program;

(b) Screening abstracts of bids and other award data to determine set-aside potential for future procurements;

(c) Assuring that small business concerns and minority business enterprises are appropriately identified on source lists and abstracts of bids or proposals by an "S" and "M", respectively, or other appropriate symbol;

(d) Reviewing types and classes of items and services to determine where small business set-asides can be applied;

- (e) Recommending that portions of large planned procurements of suitable components of end items or services be purchased separately so small firms may compete;
- (f) Making a unilateral determination for total or partial small business set-asides in accordance with Subpart 19.5 of the Federal Acquisition Regulations;
- (g) Submitting proposed procurement actions for AID/Washington contracts to SDB for screening (see 719.271-6);
- (h) Taking action to assure that unnecessary qualifications, restrictive specifications or other features (such as inadequate procurement lead time) of the programming or procurement process which may prevent small business participation in the competitive process are modified to permit such participation where an adequate product or service can be obtained;
- (i) Prior to rendering a final decision on a proposed non-competitive procurement action, and as part of his/her findings and determinations, the contracting officer shall consider the recommendations, if any, of SDB together with the latter's list of additional sources;
- (j) As appropriate, referring small business concerns, including small minority business enterprises, to SDB for information and advice;
- (k) Promoting increased awareness by the technical staff of the availability of small business concerns;
- (l) Making available to SDB copies of solicitations when requested;
- (m) Assisting SDB in counseling non-responsive or non-responsible small business bidders/offerors to help them to participate more effectively in future solicitations; and
- (n) Including the Small Business and Minority Business Enterprises Subcontracting Program clauses in all contracts where required by Part 19 of the FAR.

719.271-4 Heads of Contracting Activities.

In order for the agency small business program to be effective, the active support of top management is required. The heads of the contracting activities shall be responsible for:

- (a) Rendering decisions in cases resulting from non-acceptances by their contracting officers of set-aside recommendations made by SDB;
- (b) Consulting with SDB in establishing small business and minority business enterprise award goals, where practicable and desirable; and
- (c) Advising cognizant technical officers of their responsibilities as set forth in 719.271-5.

719.271-5 Cognizant technical officers.

Since the procurement process starts with the establishment of a requirement, the actions of the cognizant technical officers can affect the opportunity of small business to participate equitably; therefore, each cognizant technical officer shall, during the formulation of activities which will require contractual implementation:

- (a) Consult with SDB on the availability and capabilities of small business firms to permit making a tentative set-aside determination where appropriate; and
- (b) Provide sufficient procurement lead time in the activity implementation schedule to allow potential small business participation.

719.271-6 Small business screening procedure.

(a) General. All AID/Washington proposed contract actions in excess of the simplified acquisition threshold (FAR 13.101 and 13.103(b)) shall be screened by SDB, with the exception of:

- (1) Class set-asides and those unilaterally set-aside by contracting officers (719.271-3 (f));
- (2) Those where the contracting officer certifies in writing

that the public exigency will not permit the delay incident to screening (719.271-7(b));

(3) "Institution building" contracts (contracts for development of a counterpart capability in the host country) with educational or nonprofit institutions; or collaborative assistance contracts pursuant to AIDAR 715.613-71 and AIDAR Appendix F.

(4) Those involving the payment of tuition and fees for participant training at academic institutions; and

(5) Personal services contract requirements (see 719.270).

(b) Preparation of Form AID 1410-14 (the Small Business/Minority Business Enterprise Procurement Review Form).

(1) The contracting officer shall prepare the subject form in an original and 3 copies and forward the original and 2 copies to SDB within one working day of receipt by the contracting activity of a procurement requisition.

(2) The contracting officer will attach to his/her transmittal a complete copy of the procurement request and a copy of the recommended source list as furnished by the technical office and supplemented by him/her.

(3) The contracting officer shall complete blocks 2, 3, 4, 5, 9, and 10 (when appropriate) prior to submittal to SDB.

(c) Screening of Form AID 1410-14 by SDB.

(1) SDB will screen the contracting officer's recommendations on set-aside potential, small business subcontracting opportunities, and section 8(a) subcontracting, and furnish him/her with either a written concurrence in his/her recommendations or written counter-recommendations on the original and duplicate copy within five working days from receipt of the form from the contracting officer.

(2) SDB will complete Blocks 1, 6, 7, 8, 11, and 12 (when appropriate) prior to returning the screened form to the contracting officer.

(d) Concurrence or rejection procedure.

(1) The contracting officer shall complete Block 13 upon receipt of the original and duplicate copy of the screened form from SDB.

(2) If the contracting officer rejects the SDB counter-recommendation, he/she shall return the original and duplicate forms with his/her written reasons for rejection to SDB within two working days.

(3) Upon receipt of the contracting officer's rejection, SDB may: (i) accept, or (ii) appeal, the rejection. In the case of acceptance of the contracting officer's rejection, SDB shall annotate Block 14 when it renders a decision and return the original form to the contracting officer within two working days.

(e) Appeal procedure.

(1) When informal efforts fail to resolve the set-aside disagreement between the contracting officer and SDB, the latter official may appeal the contracting officer's decision to the head of the contracting activity. Such an appeal will be made within five working days after receipt of the contracting officer's rejection.

(2) In the case of an appeal, SDB will send the original and duplicate form, with the appeal noted in Block 14, directly to the head of the contracting activity with its written reasons for appealing. The contracting officer will be notified of SDB's appeal by means of a copy of the written reasons for appealing.

(3) The head of the contracting activity shall render a decision on the appeal (complete Block 15) within three working days after receipt of same and return the original to SDB and the duplicate to the contracting officer.

719.271-7 Reports on procurement actions that are exempted from screening.

(a) Unilateral and class set-asides. The contracting officer shall prepare Form AID 1410-14 as stated in 719.271-6, but forward only the duplicate copy with the documentation required by Block 5 of the form to SDB.

The original will be filed in the contract file.

(1) If, upon review of the material submitted under 719.271-7(a) above, SDB concludes that it would be practicable to accomplish all or a portion of the procurement involved under section 8(a) subcontracting, it shall so advise the contracting officer in writing within five days after receipt of such material.

(2) Such advice shall be considered a counter- recommendation and shall be processed in accordance with 719.271-6 (d) and (e).

(b) Public exigency exemption. The contracting officer shall prepare Form AID 1410-14 as stated in 719.271-6, but forward only the duplicate copy with the documentation required by Block 5 of the form to SDB. In addition to the documentation called for in 719.271-6, the contracting officer shall furnish a copy of his/her written determination exempting the procurement from screening. The determination shall cite the pertinent facts which led to his/her decision. This exemption is not intended to be used as substitute for good procurement planning and lead-time; SDB will report abuses of this exemption to the head of the contracting activity for appropriate action in accordance with 719.271-4(c).

(c) Institution building contract (IBC) exemption. The contracting officer shall prepare Form AID 1410-14 as stated in 719.271-6, but forward only the duplicate copy with the documentation required by Block 5 of the form to SDB.

(d) Personal services contract exemption. Preparation of Form AID 1410-14 is not required for personal services contracts.

719.272 Small disadvantaged business policies.

In addition to the requirements in FAR Part 19, Part 726 provides for contracting and subcontracting with small disadvantaged businesses and other disadvantaged enterprises based on provisions of the foreign assistance appropriations acts. (See FAR Part 19 and FAR Part 726)

PART 722 -- APPLICATION OF LABOR LAWS TO GOVERNMENT ACQUISITION

SUBPART 722.1 -- BASIC LABOR POLICIES

722.103 Overtime.
722.103-1 Definitions.
722.103-2 Policy.
722.103-3 Reserved.
722.103-4 Approvals.
722.170 Employment of third country nationals (TCN's) and cooperating country nationals (CCN's).

SUBPART 722.8 -- EQUAL EMPLOYMENT OPPORTUNITY

722.805-70 Procedures.

Authority: Sec. 621, Pub. L. 87-195, 75 Stat. 445, (22 U.S.C. 2381) as amended; E.O. 12163, Sept. 29, 1979, 44 FR 56673; 3 CFR 1979 Comp., p. 435.

SUBPART 722.1 -- BASIC LABOR POLICIES

722.103 Overtime.
722.103-1 Definitions.

Compensatory time off

"Compensatory time off" means leave equal to overtime worked, which, unless otherwise authorized in a contract or approved by a contracting officer, must be taken not later than the end of the calendar month following that in which the overtime is worked.

722.103-2 Policy

(a) Most contracts covered by this regulation call for the performance of professional or technical services overseas on a cost-reimbursement basis. The compensation for employees performing such services is normally fixed on a monthly or annual basis, and the contracts usually state minimum work week hours. It is not expected that these employees will receive additional pay, overtime or shift premiums, or compensatory time off.

(b) When the contracting officer determines it is in the best interests of the Government, specific provision may be made in contracts to permit such benefits for non-technical and non-professional employees serving overseas, subject to approvals to be required in the contract.

722.103-3 [Reserved]

722.103-4 Approvals.

The contracting officer may make the determinations referred to in FAR 22.103-4.

722.170 Employment of third country nationals (TCN's) and cooperating country nationals (CCN'S).

(a) General. It is AID policy that cooperating country nationals (CCN'S) and third country nationals (TCN's), who are hired abroad for work in a cooperating country under AID-direct contracts, generally be extended the same benefits, and be subject to the same restrictions as TCN's and CCN's employed as direct hires by the AID Mission. Exceptions to this policy may be granted either by the Mission Director or the Assistant Administrator having program responsibility for the project. (TCN's and CCN's who are hired to work in the United States shall be extended benefits and subject to restrictions on the same basis as U.S. citizens who work in the United States.)

(b) Compensation. Compensation, including merit or promotion increases paid to TCN's and CCN's may not, without the approval of the Mission Director or the Assistant Administrator having program responsibility for the project, exceed the prevailing compensation paid to personnel performing comparable work in the cooperating country as determined by the AID Mission. Unless otherwise authorized by the Mission Director or the Assistant Administrator having program responsibility for the project, the compensation of such TCN and CCN employees shall be paid in the currency of the cooperating country.

(c) Allowances and differentials. TCN's and CCN's, hired abroad for work in a cooperating country, are not eligible for allowances or differentials under AID-direct contracts, unless authorized by the Mission Director or the Assistant Administrator having program responsibility for the project.

(d) Country and security clearances. The contractor shall insure that the necessary clearances, including security clearances, if required, have been obtained for TCN and CCN employees in accordance with any such requirements set forth in the contract or required by the AID Mission, prior to the TCN or CCN starting work under the contract.

(e) Physical fitness. Contractors are required to insure that prospective TCN and CCN employees are examined prior to employment to determine whether the prospective employee meets the minimum physical requirements of the position and is free from any contagious disease.

(f) Workweek, holidays, and leave. The workweek, holidays, and leave for TCN and CCN employees shall be the same as for all other employees of the contractor, under the terms of the contract; however, TCN and CCN employees

are not eligible for home leave or military leave unless authorized by the Mission Director or the Assistant Administrator having program responsibility for the project.

(g) Travel and transportation for TCN's and CCN's. Travel and transportation shall be provided TCN and CCN employees on the same basis as for all other employees of the contractor, under the terms of the contract.

(h) Household effects and motor vehicles. AID will not provide household effects to TCN and CCN employees; such employees may ship their household effects and motor vehicles to their place of employment on the same basis as for all other employees of the contractor, under the terms of the contract unless they are residents of the cooperating country.

SUBPART 722.8 -- EQUAL EMPLOYMENT OPPORTUNITY

722.805-70 Procedures.

The following procedures apply, as appropriate, for all contracts:

(a) General. (1) When all necessary representations and certifications (Reps and Certs) as required by FAR 22.810 are received, the contracting officer must review them to determine that they have been completed and signed as required, and are acceptable. Acceptable Reps and Certs are the first step in the EEO clearance process.

(2) If the Reps and Certs are not deemed acceptable on technical grounds (e.g. incomplete, not signed, etc.) the contracting officer must decide if they can be made acceptable within a reasonable period by corrective action on the part of the offeror, or if the fault is such that it renders the offer nonresponsive. In the first case, necessary corrective action should be taken; in the second case, negotiations with the non-responsive offeror will be terminated. If the Reps and Certs raise questions concerning EEO compliance, and this would be the basis for finding the offeror non-responsive, the matter must be referred to the cognizant regional Department of Labor Office of Federal Contract Compliance Programs (OFCCP) regardless of the estimated value of the contract; only OFCCP may make a determination of non-compliance with EEO requirements.

(b) Contracts for \$1,000,000 or more. (1) In addition to the requirement for obtaining acceptable Reps and Certs in paragraph (a) of this section, contracts and modifications with an estimated value of \$1,000,000 or more (including any modification which increases the total estimated value of a contract to \$1,000,000 or more, or any modification which is itself \$1,000,000 or more), must, in accordance with FAR 22.8, have OFCCP verification of EEO compliance before award. The contracting officer shall follow the procedures for obtaining EEO compliance in FAR 22.805(a). In requesting a preaward review from OFCCP, the contracting officer may need to provide the following information in addition to the items listed in FAR 22.805(a)(4):

(i) Name, title, address, and telephone number of a contract person for the prospective contractor;

(ii) A description of the type of organization (university, nonprofit, etc.) and its ownership (private, foreign, state, etc.).

(iii) Names and addresses of organizations joint venture (if any).

(iv) Type of procurement (new contract--RFP or IFB, amendment, etc.) and estimated dollar amount, and term.

(v) Copy of approved Reps and Certs.

(2) If the initial contact with OFCCP is by telephone, the contracting officer and OFCCP should mutually determine what information is to be included in the written verification request. In the event that OFCCP reports that the offeror is not in compliance, negotiations with the offeror shall be terminated.

(c) Contracts over \$10,000, but less than \$1,000,000. Contracts and amendments within this range do not require formal verification by OFCCP. The method used to verify compliance is at the discretion of the contracting officer. The contracting officer may rely on the documentation submitted by the offeror (the Reps and Certs--see Sec. 722.805-70(a)), unless he or she is aware of some reason to doubt the documentation submitted. In case of doubt, then an informal check with OFCCP should be made. In the event that evidence of non-compliance is developed, the contracting officer must contact OFCCP for confirmation of EEO status; only OFCCP may determine non-compliance with EEO requirements. If OFCCP confirms non-compliance, negotiations with the offeror or contractor shall be terminated.

(d) Documentation for the contract file. (1) Every contract file must contain completed signed Reps and Certs. The file must clearly show that these documents have been reviewed and accepted by the contracting officer. If the Reps and Certs were revised to make them acceptable (see Sec. 722.805-70(a)), the file must show what changes were required and certify that the changes were made.

(2) For contracts or amendments of \$1,000,000 or more, the file must contain:

(i) A record of the initial contact with OFCCP, specifying the name, address, and telephone number of the person contacted, a summary of the information presented, and the advice given by OFCCP;

(ii) A copy of the written follow-up request for EEO compliance verification to OFCCP; and

(iii) A copy of the compliance verification from OFCCP.

(3) For contracts or amendments over \$10,000 but less than \$1,000,000, the file must contain a statement from the contracting officer that the contractor is considered in compliance with EEO requirements, and giving the basis for this statement (see Sec. 722.805-70(c)). This statement may be in a separate memorandum to the file or in the memorandum of negotiation (see 704.803(a)).

(4) Documentation in the event of non-compliance. In the event that OFCCP determines that a prospective contractor is not in compliance, a copy of OFCCP's written determination, and a summary of resultant action taken (termination of negotiations, notification of offeror and cognizant technical officer, negotiation with next offeror in competitive range, resolicitation, etc.) will be placed in the contract file for any contract which may result, together with other records related to unsuccessful offers, and retained for at least six months following award.

PART 724 -- PROTECTION OF PRIVACY AND FREEDOM OF INFORMATION

SUBPART 724.2 -- FREEDOM OF INFORMATION ACT

724.202 Policy

Authority: Sec. 621, Pub. L. 87-195, 75 Stat. 445, (22 U.S.C. 2381) as amended; E.O. 12163, Sept. 29, 1979, 44 FR 56673; 3 CFR 1979 Comp., p. 435.

SUBPART 724.2 -- FREEDOM OF INFORMATION ACT

724.202 Policy.

The Agency for International Development's policies concerning implementation of the Freedom of Information Act are codified in 22 CFR 212 (AID Regulation 12).

PART 725 -- FOREIGN ACQUISITION

SUBPART 725.1 -- BUY AMERICAN ACT - SUPPLIES

725.170 Exceptions for Foreign Assistance Act functions.

SUBPART 725.4 -- Trade Agreements

725.403 Exceptions.

SUBPART 725.70 -- SOURCE, ORIGIN, AND NATIONALITY

725.701 General.
725.702 Designation of authorized geographic code.
725.703 Contractor employees.
725.704 Contract clause - source and nationality requirements.
725.705 Local procurement - and contract clause.
725.706 Geographic Source waivers.

Authority: Sec. 621, Pub. L. 87-195, 75 Stat. 445, (22 U.S.C. 2381) as amended;
E.O. 12163, Sept. 29, 1979, 44 FR 56673; 3 CFR 1979 Comp., p. 435.

SUBPART 725.1 -- BUY AMERICAN ACT - SUPPLIES

725.170 Exceptions for Foreign Assistance Act functions.
In addition to the exception stated in FAR 25.102 for purchases for use outside the United States, there is an exception for economic assistance functions performed under authority of the Foreign Assistance Act. (See FAR 25.102) This exception is stated in Executive Order 11223, dated May 12, 1965 (30 FR 6635). U.S. procurement restrictions are applied by AID, however, as shown elsewhere in this part. These restrictions are generally tighter than the Buy American Act. As a general rule, the tighter AID restrictions will be used. In the case of certain procurements for use within the United States, the Buy American provision may be used instead in the interest of uniformity among Federal Agencies procuring for domestic use.

SUBPART 725.4 -- Trade Agreements

725.403 Exceptions.
FAR 25.4 establishes procedures for purchases under the Trade Agreements Act of 1979 (including GATT's Agreement on Government Procurement) and the North American Free Trade Agreement (NAFTA). Under both such agreements, USAID's contracts for the purpose of providing foreign assistance are not subject to the procedures set forth in FAR 25.4. In contrast, USAID's operating expense-type administrative purchases (i.e., purchases for the direct benefit and use of USAID) are subject to the procedures in FAR 25.4, unless otherwise exempted by one of the exemptions specified in FAR 25.4.

SUBPART 725.70 -- SOURCE, ORIGIN, AND NATIONALITY

725.701 General.
AID policies regarding source, origin, and nationality requirements for AID contractors and subcontractors are established in Chapter 310 of the AID Automated Directive System (ADS). These policies as they apply to subcontracts and purchases under AID-direct contracts have been incorporated into the contract clauses referenced in 725.704 and 725.705 of this subpart.

725.702 Designation of authorized geographic code.

(a) The authorized geographic code or codes for an AID contract shall be specified in the Schedule of each contract and shown on its cover page. If no geographic code is specified, the authorized code will be deemed to be Geographic Code 000, the U.S.

(b) Individual country and geographic codes are defined in the Agency Geographic Code Book.

725.703 Contractor employees.

(a) Except as specifically provided in paragraph (b) of this section, there are no nationality restrictions on employees or consultants of either contractors or subcontractors providing services under an AID-financed contract, except that they must be citizens of a Geographic Code 935 country, or non-U.S. citizens lawfully admitted for permanent residence in the U.S.

(b) For AID-financed construction projects where the contract is awarded to a U.S. firm, at least half of the supervisors, and any other specified key personnel, working at the project site must be U.S. citizens or permanent legal residents of the United States. Exceptions may be authorized by the Mission Director in writing if special circumstances make compliance impractical.

725.704 Contract clause - source and nationality requirements.

The clause in 752.7004 is required in all AID direct contracts.

725.705 Local procurement - contract clause.

(a) Local procurement may be undertaken in accordance with the terms of Chapter 311 of the AID ADS.

(b) All contracts involving performance overseas must contain the clause specified in 752.7017.

725.706 Geographic source waivers.

(a) Authority to waive source, origin, nationality, and transportation services requirements is set forth in Sec. 310.5.9 of the ADS. Additional guidance is available in ADS Sec. 310.5.8.

(b) The contracting officer shall insert the authorized geographic code based on an approved geographic source waiver in the Schedule of the contract as provided for in 725.702. In addition, the contracting officer shall place a copy of any approved geographic source waiver in the official contract file.

PART 726 -- OTHER SOCIOECONOMIC PROGRAMS

SUBPART 726.70 -- Disadvantaged Enterprises Program

726.7001 Scope of subpart.

726.7002 Definitions.

726.7003 Policy.

726.7004 Determination to use other than full and open competition.

726.7005 Exceptions.

726.7006 Determination of status as a small disadvantaged business.

726.7007 Requirement for subcontracting with disadvantaged enterprises.

726.7008 Limitations on subcontracting.

Subpart 726.71--Relocation of U.S. Businesses,
Assistance to Export Processing Zones,

Internationally Recognized Workers' Rights

726.7101 Policy.

726.7102 PD 20 provision.

AUTHORITY: Sec. 621, Pub. L. 87-195, 75 Stat. 445 (22 U.S.C. 2381), as amended; E.O. 12163, Sept. 29, 1979, 44 FR 56673, 3 CFR 1979 Comp., p. 435.

726.7001 Scope of subpart.

This subpart supplements FAR part 19 and implements the provisions of the foreign assistance appropriations acts concerning disadvantaged enterprises which require, in general, that not less than ten percent of the aggregate amount made available for development assistance and for assistance for famine recovery and development in Africa shall be made available to disadvantaged enterprises. See part 705 and part 706 for additional provisions on publicizing contract actions and using other than full and open competition.

726.7002 Definitions.

(a) "Controlled by socially and economically disadvantaged individuals" means management and daily business are controlled by one or more such individuals.

(b) "Disadvantaged enterprises" means U.S. organizations or individuals that are:

(1) Business concerns (as defined in FAR 19.001) owned and controlled by socially and economically disadvantaged individuals; (See FAR 19.001)

(2) Institutions designated by the Secretary of Education, pursuant to 34 CFR 608.2, as historically black colleges and universities;

(3) Colleges or universities having a student body in which more than 40 percent of the students are Hispanic American; or

(4) Private voluntary organizations which are controlled by individuals who are socially and economically disadvantaged.

(c) "Economically disadvantaged individuals" has the same meaning as in FAR 19.001, except that the term includes women. (See FAR 19.001)

(d) "Owned by socially and economically disadvantaged individuals" means at least 51 percent owned by one or more individuals who are both socially and economically disadvantaged, or a publicly owned business having at least 51 percent of its stock owned by one or more socially and economically disadvantaged individuals.

(e) "Small disadvantaged business" means a small business concern (as defined in FAR 19.001) that is at least 51 percent unconditionally owned by one or more individuals who are both socially and economically disadvantaged (as defined in this section), or a publicly owned business that has at least 51 percent of its stock unconditionally owned by one or more socially and economically disadvantaged individuals (as defined in this section) and that has its management and daily business controlled by one or more such individuals. (See FAR 19.001)

(f) "Socially disadvantaged individuals" has the same meaning as in FAR 19.001, except that the term includes women.

726.7003 Policy.

AID promotes participation in its projects by disadvantaged enterprises. In order to achieve the goals in foreign assistance appropriation acts, contracts which are to be funded from amounts made available for development assistance and for famine recovery and development in Africa are subject to the following policies:

(a) Authority in section 8(a) of the Small Business Act [15 U.S.C.

637(a)] shall be used to the maximum practicable extent;

(b) Other than full and open competition in contracting with certain disadvantaged enterprises shall be authorized in accordance with 706.302-71;

(c) Subcontracting with disadvantaged enterprises shall be carried out in accordance with subpart 726.3;

(d) In accordance with 705.207, the Office of Small and Disadvantaged Business Utilization (OSDBU) shall be notified at least seven business days before publicizing a proposed procurement in excess of \$100,000.

726.7004 Determination to use other than full and open competition.

The determinations required in order to use the authority under 706.302-71 for other than full and open competition shall be made by the contracting officer in consultation with the Director of OSDBU. In the event of a disagreement between the contracting officer and the Director of OSDBU, the head of the contracting activity shall make the final determination.

726.7005 Exceptions.

The notification requirement in 705.207 and the subcontracting requirement in 726.301 are based on statutory requirement and may not be deviated from under the provisions of Subpart 701.4. By statute, the Administrator or designee may determine that these requirements do not apply to a particular contract or category of contracts. The Procurement Executive has been designated to make such determinations. One such determination concerning subcontracting is set out in 726.301(b).

726.7006 Determination of status as a disadvantaged enterprise.

(a) To be eligible for an award under AIDAR 706.302-71 providing for other than full and open competition, the contractor must qualify, as of both the date of submission of its offer and the date of contract award, as a small disadvantaged business (as defined in 726.101), an historically black college or university, a college or university in which more than 40 percent of the students are Hispanic Americans, or a private voluntary organization controlled by individuals who are socially and economically disadvantaged. The contracting officer shall insert the provision at 752.226-1 in any solicitation or contract to be awarded under the provisions of 706.302-71.

(b) The contracting officer shall accept an offeror's representations and certifications under the provisions referenced above that it is a small disadvantaged business unless he or she determines otherwise based on information contained in a challenge of the offeror's status by the Small Business Administration or another offeror, or otherwise available to the contracting officer.

726.7007 Requirement for subcontracting with disadvantaged enterprises.

(a) In addition to the requirements in FAR Subpart 19.7, any new contract or modification which constitutes new procurement (except for a contract or modification with a disadvantaged enterprise as defined in 726.101) with respect to which more than \$500,000 is to be funded with amounts made available for development assistance or for assistance for famine recovery and development in Africa shall contain a provision requiring that not less than ten percent of the dollar value of the contract must be subcontracted to disadvantaged enterprises, including disadvantaged enterprises which are not small. (See FAR 19.7)

(b) This requirement does not apply when the contracting officer, with the concurrence of the Director of OSDBU, certifies there is no realistic expectation of U.S. subcontracting opportunities and so documents the file. If the contracting officer and the Director of OSDBU do not agree, the determination will be made by the head of the contracting activity. See 726.104 for guidance on other potential exceptions.

(c) The contracting officer shall insert the clause in 752.226-2 in any solicitation or contract as provided in paragraph (a) of this section, unless exempted in accordance with the provisions of paragraph (b) of this section.

726.7008 Limitations on subcontracting.

The contracting officer shall insert the clause at 752.226-3, Limitations on Subcontracting, in any solicitation and contract for technical assistance services which is to be awarded under the authority of 706.302-71.

Subpart 726.71--Relocation of U.S. Businesses, Assistance to Export Processing Zones, Internationally Recognized Workers' Rights

726.7101 Policy.

USAID Policy Determination (PD) 20, ``Guidelines to Assure USAID Programs do not Result in the Loss of Jobs in the U.S.'' implemented statutory prohibitions on expenditure of appropriated funds. The PD contains a standard provision for inclusion in USAID-funded grants and inter-agency agreements and indicates that when the PD applies to a contract, appropriate provisions covering the subject matter are to be included. When the provisions of PD 20 do apply to a contract, the cognizant technical office shall provide to the contracting officer appropriate language tailored to the specific circumstances for the contract statement of work, or if applicable to the circumstances, the provision included in the PD (see Sec. 726.7102) may be used as a clause in the contract. The provision is not required in subcontracts.

726.7102 PD 20 provision.

Relocation of U.S. Businesses, Assistance to Export Processing Zones, Internationally Recognized Workers' Rights (Jan 1994)

No funds or other support provided hereunder may be used in an activity reasonably likely to involve the relocation or expansion outside of the United States of an enterprise located in the United States if non-U.S. production in such relocation or expansion replaces some or all of the production of, and reduces the number of employees at, said enterprise in the United States.

No funds or other support provided hereunder may be used in an activity the purpose of which is the establishment or development in a foreign country of any export processing zone or designated area where the labor, environmental, tax, tariff, and safety laws of the country would not apply, without the prior approval of USAID.

No funds or other support provided hereunder may be used in an activity which contributes to the violation of internationally recognized rights of workers in the recipient country, including those in any designated zone or area in that country.

AIDAR SUBCHAPTER E -- GENERAL CONTRACTING REQUIREMENTS

PART 728 -- BONDS AND INSURANCE

SUBPART 728.1 -- BONDS

728.105-1 Advance payment bonds.

SUBPART 728.3 -- INSURANCE

728.305-70 Overseas worker's compensation and war-hazard insurance--waivers and AID insurance coverage.

728.307-2 Liability.

728.307-70 Medical Evacuation (MEDEVAC) Services (MAR 1993)

728.309 Contract clause for worker's compensation insurance.

728.313 Contract clauses for insurance of transportation or transportation-related services.

Authority: Sec. 621, Pub. L. 87-195, 75 Stat. 445, (22 U.S.C. 2381) as amended; E.O. 12163, Sept. 29, 1979, 44 FR 56673; 3 CFR 1979 Comp., p. 435.

SUBPART 728.1 -- BONDS

728.105-1 Advance payment bonds.

(a) Generally, advance payment bonds will not be required in connection with AID contracts containing an advance payment provision. In lieu thereof, contracting officers will follow procedures set forth in FAR 32.409-3. (See FAR 32.409)

(b) Whenever a contracting officer considers that an advance payment bond is necessary, the contracting officer will:

(1) Establish a bond penalty that will adequately protect interests of the Government,

(2) Use the AID Advance Payment Bond format,

(3) Place bond with a surety currently approved by the U.S. Treasury Department according to the latest Treasury Department Circular 570,

(4) Stipulate that the cost of the bond shall not exceed a rate of \$7.50 per \$1,000 per annum based on the penalty of the bond, without the prior written approval of the Office of Procurement, Policy Division (M/OP/P).

(c) Where the surety's obligation under an advance payment bond covers all advances made to the contractor during the term of the contract, no release should be issued to the surety until all advances made and to be made under the contract have been fully liquidated in accordance with the provisions of the contract, such as no-pay vouchers, reports of expenditures, or by refund. Where the surety's obligation under the bond is limited to advances made during a specified period of time, no release should be issued to the surety until all advances made and to be made during the specified period have been liquidated as aforesaid.

SUBPART 728.3 -- INSURANCE

728.305-70 Overseas worker's compensation and war-hazard insurance -- waivers and AID insurance coverage.

(a) Upon the recommendation of the AID Administrator, the Secretary of Labor may waive the applicability of the Defense Base Act (DBA) with respect to any contract, subcontract, or subordinate contract, work location, or classification of employees. Either the contractor or AID can request a

waiver from coverage. Such a waiver can apply to any employees who are not U.S. citizens, not residents of, or not hired in the United States. Waivers requested by the contractor are submitted to the contracting officer for approval and further submission to the Department of Labor, which grants the waiver. Application for a waiver is submitted on Labor Department Form BEC 565. AID has a number of blanket waivers already in effect for certain countries that are applicable to its direct contracts with contractors performing in such countries. Where such waivers are granted from coverage under the DBA, the waiver is conditioned on providing other workmen's compensation coverage to employees to which the waiver applies. Usually this takes the form of securing workmen's compensation coverage of the country where work will be performed or of the country of the employee's nationality, whichever offers greater benefits. The Department of Labor has granted partial blanket waivers of DBA coverage applicable to AID-financed contracts performed in certain countries, subject to two conditions:

(1) Employees hired in the United States by the contractor, and citizens or residents of the United States are to be provided DBA insurance coverage:

(2) Waived employees (i.e., employees who are neither U.S. citizens nor U.S. resident aliens, and who were hired outside the United States) will be provided worker's compensation benefits as required by the laws of the country in which they are working or the laws of their native country, whichever offers greater benefits. Information as to whether a DBA Waiver has been obtained by AID for a particular country may be obtained from the cognizant AID contracting officer.

(b) To assist contractors in securing insurance at minimal rates for the workmen's compensation insurance required under the DBA, and to facilitate meeting insurance requirements for such coverage, AID, after open and competitive negotiation, has entered into a contract with an insurance carrier to provide such coverage at a specified rate. The terms of this contract require the insurance carrier to provide coverage, and the contractor to make payments to and handle its claims with that insurance carrier. Contracting officers are responsible for explaining and advising contractors of the details of securing such insurance.

728.307-2 Liability.

(a)-(b) [Reserved]

(c) Automobile liability. In order to ensure that private automobiles used by contractor employees stationed overseas under an AID contract are properly insured, AID has established minimum required coverages as a supplement to the FAR clause at 52.228-7. This supplemental coverage is specified in AIDAR 752.228-7, and is to be used in all AID-direct contracts involving performance overseas. (See FAR 52.228)

728.307-70 Medical Evacuation (MEDEVAC) Services (MAR 1993)

The Contracting Officer shall insert the clause at 752.228-70 in all contracts which require performance by contractor employees overseas.

728.309 Contract clause for worker's compensation insurance.

(a) Because of the volume of projects performed overseas resulting in contracts which require worker's compensation insurance, AID has contracted with an insurance carrier to provide the required insurance for all AID contractors. It is therefore necessary to supplement the FAR clause at 52.228-3 with the additional coverage specified in AIDAR 752.228-3. The coverage specified in AIDAR 752.228-3 shall be used in addition to the coverage specified in FAR 52.228-3 in all AID-direct contracts involving performance overseas. (See FAR 52.228)

728.313	Contract clauses for insurance of transportation or	transportati
		on-related
		services.

(a) AID is required by law to include language in all its direct contracts and subcontracts ensuring that all U.S. marine insurance companies have a fair opportunity to bid for marine insurance when such insurance is necessary or appropriate under the contract. AID has therefore established a supplementary preface to the clause at FAR 52.228-9. (See FAR 52.228) This supplementary preface is set forth in AIDAR 752.228-9, and is required for use in any AID-direct contract where marine insurance is necessary or appropriate.

PART 731 -- CONTRACT COST PRINCIPLES AND PROCEDURES

SUBPART 731.1 -- APPLICABILITY

731.109	Advance agreements.
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SUBPART 731.2 -- CONTRACTS WITH COMMERCIAL ORGANIZATIONS

731.205-6 Compensation for personal services.

731.205-46 Travel costs.

731.205-70 Overseas recruitment incentive.

SUBPART 731.3--CONTRACTS WITH EDUCATIONAL INSTITUTIONS

731.370	Predetermined fixed rates for indirect costs.
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731.371	Compensation for personal services.
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731.372 Fringe benefits.

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SUBPART 731.7 -- CONTRACTS WITH NONPROFIT ORGANIZATIONS

731.770 OMB Circular A-122; cost principles for nonprofit organizations;
AID implementation.

731.771	Bid and proposal costs.
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731.772	Compensation for personal services.
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731.773	Independent research and development costs.
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731.774	Overseas recruitment incentive.
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Authority: Sec. 621, Pub. L. 87-195, 75 Stat. 445, (22 U.S.C. 2381) as amended; E.O. 12163, Sept. 29, 1979, 44 FR 56673; 3 CFR 1979 Comp., p. 435.

SUBPART 731.1 -- APPLICABILITY

731.109 Advance agreements.

Advance agreements on selected costs may be negotiated with AID contractors by the Overhead and Special Cost and Contract Closeout Branch, Office of Procurement. Such advance understandings will be applicable to all AID contracts with that contractor.

SUBPART 731.2 -- CONTRACTS WITH COMMERCIAL ORGANIZATIONS

731.205-6 Compensation for personal services.

(a) General.

When establishing the workweek for employees overseas the contractor will take local and AID Mission practice into account and will insure that the workweek is compatible with that of those AID Mission and Cooperating Country employees with whom the contractor will be working.

(b) and (c) [Reserved].

(d) Salaries and wages.

It is AID policy that if an employee's base salary plus overseas recruitment incentive, if any (see AIDAR 731.205-70), exceeds the maximum hourly, daily, or annual rate for an Executive Service level ES-6, it will be allowable only if approved in writing by the Contracting Officer. (AID procedures for review/approval of salaries in excess of the ES-6 rate are set forth in Appendix G to the AID Acquisition Regulation.) AID policies on compensation of third country national or cooperating country national employees are set forth in AIDAR 722.170.

(e) through (l) [Reserved].

(m) Fringe benefits.

AID's policies on certain fringe benefits related to overseas service, including but not limited to leave, holidays, differentials and allowances, etc. are set forth in the appropriate contract clauses in AIDAR Subpart 752.70.

731.205-46 Travel costs.

It is AID policy to require prior written approval of international travel by the Contracting Officer. See AIDAR 752.7032 for specific requirements and procedures.

731.205-70 Overseas recruitment incentive.

(Note: the term "employee" as used in this section means an employee who is a U.S. citizen or a U.S. resident alien.)

(a) If a contractor employee serving overseas under a contract does not qualify for the exemption for overseas income provided under Section 911 of the U.S. Internal Revenue Code (26 U.S.C. 911), such employee is eligible to receive an overseas recruitment incentive (ORI), to the extent the ORI: is authorized by the contractor's normal policy and practice; is deemed necessary by the contractor to recruit and retain qualified employees for overseas services; and does not exceed 10% of the base salary of the employee from date of arrival at overseas post to begin assignment to date of departure from post at the end of assignment. ORI is to be paid as a single payment at the end of the employee tour of duty overseas. The contractor shall take all reasonable and prudent steps to ensure that ORI is not paid to any employee who has received the IRS Section 911 exemption.

(b) In the event that an employee subsequently receives a Section 911 exclusion for any part of the base salary upon which this supplement has been paid, such supplement or appropriate portion thereof shall be reimbursed by the contractor to AID with interest. The interest shall be calculated at the average U.S. Treasury rate in effect for the period that the contractor or his employee had the funds. Neither the contractor's nor the subcontractor's inability to collect refunds from eligible employees shall be used as a basis to excuse subsequent refunds by the contractor to AID.

SUBPART 731.3 -- CONTRACTS WITH EDUCATIONAL INSTITUTIONS

731.370 Predetermined fixed rates for indirect costs.

Section 635(k) of the Foreign Assistance Act of 1961, as amended, authorizes AID to use predetermined fixed rates in determining the indirect costs applicable under contracts with educational institutions.

731.371 Compensation for personal services.

(a) General.

When establishing the workweek for employees overseas the contractor will take local and AID Mission practice into account and will ensure that the workweek is compatible with that of those AID Mission and Cooperating Country employees with whom the contractor will be working.

(b) Salaries and wages.

(1) It is AID policy that if an employee's base salary plus overseas recruitment incentive, if any (see AIDAR 731.205-70), exceeds the maximum hourly, daily, or annual rate for an Executive Service level ES-6, it will be allowable only if approved in writing by the Contracting Officer. (AID procedures for review/approval of salaries in excess of the ES-6 rate are set forth in Appendix G to the AID Acquisition Regulation.)

(2) In considering consulting income as a factor when determining allowable salary for service under a contract:

(i) For faculty members working under annual appointments, salary for service under the contract may include the employee's on-campus salary plus "consulting income" (that is, income from employment other than the employee's regular on-campus appointment, excluding business or other activities not connected with the employee's profession) earned during the year preceding employment under the contract.

(ii) For faculty members working under academic year appointments, salary for service under the contract may include the employee's on-campus academic year salary plus "consulting income" as defined above earned during the year preceding employment under the contract, or salary for service under the contract may be derived by annualizing the academic year salary (in which case "consulting income" may not be included).

(3) AID policies on compensation of third country national or cooperating country national employees are set forth in AIDAR 722.170.

731.372 Fringe benefits.

AID's policies on certain fringe benefits related to overseas service, including but not limited to leave, holidays, differentials and allowances, etc. are set forth in the appropriate contract clauses in AIDAR 752.70.

731.373 Overseas recruitment incentive.

AID's policies regarding overseas recruitment incentives are set forth in AIDAR 731.205-70. These policies are also applicable to contracts with an educational institution.

SUBPART 731.7 -- CONTRACTS WITH NONPROFIT ORGANIZATIONS

731.770 OMB Circular A-122, Cost Principles for Nonprofit Organizations; AID implementation.

(a) Paragraph 6 of the transmittal letter for OMB Circular A-122 specifies that "Agencies shall designate a liaison official to serve as the agency representative on matters relating to the implementation of this Circular." The Director, Office of Procurement, has been so designated. The Overhead and Special Cost and Contract Close-Out Branch, Office of Procurement (OCC) provides staff assistance to the Director concerning OMB Circular A-122. OCC is also responsible for obtaining cognizance under the criteria in the transmittal letter for OMB Circular A-122; for liaison with other cognizant agencies; for authorizing exclusion of OMB Circular A-122 coverage for a particular nonprofit organization pursuant to paragraph 5 of the OMB Circular A-122 transmittal letter; and for advice and assistance in applying OMB

Circular A-122 cost principles.

(b) Paragraph 4b of the OMB Circular A-122 transmittal letter contains a definition of "prior approval" as follows:

"Prior approval means securing the awarding agency's permission in advance to incur costs for those items that are designated as requiring prior approval by OMB Circular A-122. Generally, this permission will be in writing. Where an item of cost requiring prior approval is specified in the budget of an award, approval of the budget constitutes approval of that cost." Consequently, an award containing a budget constitutes prior approval of the direct cost item in the budget, unless otherwise annotated. Accordingly, award budgets should be appropriately annotated substantially as follows:

"Inclusion of any cost in the line item budget of this award does not obviate the requirement for prior approval of cost items designated as requiring prior approval by OMB Circular A-122;" or

"In accordance with the requirements of OMB Circular No. A-122, approval is granted to incur costs for (name specific item or items) which are included in the budget of this award."

731.771 Bid and proposal costs.

Pending the establishment of Government-wide principles in Attachment B of OMB Circular A-122, AID will treat bid and proposal costs as follows:

(a) Bid and proposal costs are the costs of preparing bids, proposals, and applications for potential activities such as Government and non-Government grants, contracts and other agreements, including the development of scientific, cost, and other data needed to support such bids, proposals, and applications. Except as provided in (b) below, bid and proposal costs of the current accounting period of both successful and unsuccessful bids and proposals normally should be treated as indirect costs for allocation to all current activities, and no bid and proposal costs of past accounting periods will be allocable to the current period. However, if the organization's established practice is to treat bid and proposal costs by some other method, the results obtained may be accepted only if found to be reasonable and equitable.

(b) Bid and proposal costs incurred by the organization to obtain unrestricted funds are to be treated as fund raising and allocated an appropriate share of indirect costs under the conditions described in paragraph B.3 of Attachment A to OMB Circular A-122.

731.772 Compensation for personal services.

The policies set for in AIDAR 731.205-6 are also applicable to contracts with a nonprofit organization.

731.773 Independent research and development costs.

Pending establishment of Government-wide principles in Attachment B of OMB Circular A-122, AID will apply the cost principles at FAR 31.205-18 for independent research and development costs. (See FAR 31.205)

731.774 Overseas recruitment incentive.

AID's policies regarding overseas recruitment incentives are set forth in AIDAR 731.205-70. These policies are also applicable to contracts with a nonprofit organization.

PART 732 -- CONTRACT FINANCING

Subpart 732.1--General

732.111 Contract clauses.

SUBPART 732.4 -- ADVANCE PAYMENTS

732.401 Statutory authority.
732.402 General
732.403 Applicability.
732.406-70 Agency-issued letters of credit.
732.406-71 Circumstances for use of an LOC.
732.406-72 Establishing an LOC.
732.406-73 LOC contract clause.
732.406-74 Revocation of the LOC.

Authority: Sec. 621, Pub. L. 87-195, 75 Stat. 445, (22 U.S.C. 2381) as amended;
E.O. 12163, Sept. 29, 1979, 44 FR 56673; 3 CFR 1979 Comp., p. 435.
732.111 Contract clauses.

PART 732 -- CONTRACT FINANCING
Subpart 732.1--General

732.111 Contract clauses.
(a) [Reserved]
(b) AID may obtain short term and (less frequently) long-term indefinite quantity professional services through Agency-specific indefinite quantity contracts that are a combination of contract types. Rather than using the fixed-price payment clauses for indefinite quantity contracts, when these IQCs provide for fixed daily rates (which may include wages, overhead, general and administrative expenses, fringe benefits, and profit) for services and reimbursement of other direct costs (such as travel and transportation) at cost, then the payment clause at 752.232-7 shall be used in the contract.

SUBPART 732.4 -- ADVANCE PAYMENTS

732.401 Statutory authority.
(a) Sections 635 (b) of the Foreign Assistance Act and Executive Order 11223, May 12, 1955, 30 FR 6635, permit the making of advance payments with respect to functions authorized by the Foreign Assistance Act. Advance payments may also be made under section 305 of the Federal Property and Administrative Services Act of 1949, which provides authority, not otherwise available to AID, to take a paramount lien.
(b) The Act of August 28, 1968, Public Law 85-804 does not apply to AID.

732.402 General
(a)-(d) [Reserved]
(e)(1) All U.S. Dollar advances to for-profit organizations require the approval of the Procurement Executive; all such approvals are subject to prior consultation with the AID/W Controller.
(2) All local currency advances to for-profit organizations require the approval of the Head of the Contracting Activity, after consultation with the Mission Controller.

732.403 Applicability.
References to nonprofit contracts with nonprofit educational or research institutions for experimental, research and development work include nonprofit contracts with nonprofit institutions for: (a) technical assistance services provided to or for another country or countries, and (b) projects which concern studies, demonstrations and similar activities related to economic growth or the solution of social problems of developing countries.

732.406-70 Agency-Issued letters of credit.
This subsection provides guidance on use of AID issued letters of credit

(LOC) for advance payments.

732.406-71 Circumstances for use of an LOC.

An LOC shall be used under the following circumstances:

(a) The contracting officer has determined that an advance payment is necessary and appropriate in accordance with this subpart and the guidance provided in FAR 32.4;

(b) AID has, or expects to have, a continuing relationship of at least one year with the recipient organization, and the annual amount required for advance financing will be at least \$50,000; and

(c) The Office of Financial Management, Cash Management and Payment Division (FM/CMP) agrees that the LOC payment method is appropriate.

732.406-72 Establishing an LOC.

(a) While the contract will provide for the use of an LOC when it is justified under subsection 732.406-71, the LOC is a separate agreement between the contractor and FM/CMP, acting on behalf of the AID Controller. The terms and conditions of the LOC are established by FM/CMP/GIB.

(b) In order to establish or amend an LOC, the contracting officer shall provide FM/CMP with the following information:

- (1) The name of the Contractor;
- (2) The official 16 digit AID contract number;
- (3) The obligated amount of the contract;
- (4) The budget plan code for the obligated funds;
- (5) The effective date and estimated completion date.
- (6) The contractor Federal Tax Identification Number.

This information should be provided in writing to FM/CMP together with a request to establish or amend an LOC as early in the negotiation cycle as possible.

(c) FM/CMP will prepare the LOC in accordance with AID's LOC procedures; issue or amend and maintain the LOC in accordance with its terms and AID procedures and regulations; and provide the contracting officer(s) a copy of each LOC and any other material governing its use at the time the LOC is issued or when it is amended or modified.

732.406-73 LOC contract clause.

If payment is to be provided by LOC, the contract shall contain the clause in subsection 752.232-70.

732.406-74 Revocation of the LOC.

If during the term of the contract FM/CMP believes that the LOC should be revoked, FM/CMP may, after consultation with the cognizant contracting officer(s) and GC, revoke the LOC by written notification to the contractor. A copy of any such revocation notice will immediately be provided to the cognizant contracting officer(s).

PART 733 -- PROTESTS, DISPUTES AND APPEALS

SUBPART 733.1 -- Protests

733.101 Definitions.

733.103-70 Protests to the Agency

733.103-71 Filing of protest.

733.103-72 Responsibilities.

733.103-73 Protests excluded from consideration.

733.72 -- AID Procedures for Disputes and Appeals

733.270-1 Designation of Armed Services Board of Contract Appeals (ASBCA) to hear and determine appeals under AID contracts.

733.270-2 Special Procedures Regarding Contract Disputes Appeals Promulgated
Pursuant to Paragraph 2 of the Administrator's Designation.

Authority: Sec. 621. Pub. L. 87-195, 73 Stat. 445 (22 U.S.C. 2381), as amended:
E.O. 12173, Sept. 29, 1979 44 FR 56673, 3 CFR 1979 Comp. p. 435.

SUBPART 733.1 -- PROTESTS

733.101 Definitions.

- (a) ``Procurement Executive'' is defined in AIDAR 702.170-13.
- (b) All ``days'' referred to in this subpart are deemed to be ``calendar days'', in accordance with FAR 33.101. In the case of USAID overseas offices with non-Saturday/Sunday weekend schedules, the official post weekend applies in lieu of Saturday and Sunday.
- (c) All other terms defined in FAR 33.101 are used herein with the same meaning.

733.103-70 Protests to the agency.

AID follows the agency protest procedures in FAR 33.103, as supplemented by this section.

733.103-71 Filing of protest.

- (a) Protests must be in writing and addressed to the Contracting Officer for consideration by the Procurement Executive.
- (b) A protest shall include, in addition to the information required in FAR 33.103(d)(2), the name of the issuing Mission or office.
- (c) Material submitted by a protester will not be withheld from any interested party outside the government or from any government agency if the Procurement Executive decides to release such material, except to the extent that the withholding of such information is permitted or required by law or regulation.

733.103-72 Responsibilities.

- (a) Procurement Executive. The decision regarding an agency protest shall be made by the Procurement Executive within 30 days from the date a proper protest is filed unless the Procurement Executive determines that a longer period is necessary to resolve the protest, and so notifies the protester in writing. The Procurement Executive shall make his or her decision after personally reviewing and considering all aspects of the case as presented in the protest itself and in any documentation provided by the contracting officer, and after obtaining input and clearance from the Assistant General Counsel for Litigation and Enforcement (GC/LE). The decision shall be in writing and constitutes the final decision of the Agency.
- (b) Contracting Officer. The contracting officer is responsible for requesting an extension of the time for acceptance of officers as described in FAR 33.103(f)(2).

733.103-73 Protests excluded from consideration.

- (a) Contract administration. Disputes between a contractor and AID are resolved pursuant to the disputes clause of the contract and the Contract Disputes Act of 1978.

(b) Small business size standards and standard industrial classification. Challenges of established size standards or the size status of particular firms, and challenges of the selected standard industrial classification are for review solely by the Small Business Administration.

(c) Procurement under Section 8(a) of the Small Business Act. Contracts are let under Section 8(a) of the Small Business Act to the Small Business Administration solely at the discretion of the Contracting Officer, and are not subject to review.

(d) Protests filed in the General Accounting Office (GAO). Protests filed with the GAO will not be reviewed.

(e) Procurements funded by AID to which AID is not a party. No protest of a procurement funded by AID shall be reviewed unless AID is a party to the acquisition agreement.

(f) Subcontractor protests. Subcontractor protests will not be considered.

(g) Judicial proceedings. Protests will not be considered when the matter involved is the subject of litigation before a court of competent jurisdiction or when the matter involved has been decided on the merits by a court of competent jurisdiction.

(h) Determinations of responsibility by the contracting officer. A determination by the contracting officer that a bidder or offeror is or is not capable of performing a contract will not be reviewed by the Procurement Executive.

(i) Small Business Certificate of Competency Program. Any referral made to the Small Business Administration pursuant to section 8(b)(7) of the Small Business Act, or any issuance of, or refusal to issue, a certificate of competency under that section will not be reviewed by the Procurement Executive.

SUBPART 733.27 -- AID PROCEDURES FOR DISPUTES AND APPEALS

733.270-1 Designation of Armed Services Board of Contract Appeals (ASBCA) to hear and determine appeals under AID contracts.

(a) The ASBCA is hereby designated the authorized representative of the Administrator of the Agency for International Development (AID) in hearing, considering, and determining as fully and finally as might the Administrator, appeals by contractors from decisions on disputed questions taken pursuant to the provisions of contracts requiring the determination of such appeals by the Administrator or his/her duly authorized representative or Board.

(b) In acting under this designation, the ASBCA will follow such rules and procedures as are or may be prescribed for the conduct of Defense Department contract appeal cases, except for the rules entitled "Forwarding of Appeals" (Rule 3) and "Duties of the Contracting Officer" (Rule 4), which subjects will be governed by procedures to be promulgated by the General Counsel of AID with approval of the Chairman of the ASBCA.

(c) The General Counsel of AID will assure representation of the interests of the Government in proceedings before the ASBCA.

(d) All officers and employees of AID will cooperate with the ASBCA and Government counsel in the processing of appeals so as to assure their speedy and just determination.

733.270-2 Special Procedures Regarding Contract Disputes Appeals Promulgated Pursuant to Paragraph 2 of the Administrator's Designation.

(a) The following rules will apply, in lieu of Rules 3 and 4(a) of the ASBCA, to contract dispute appeals to the Administrator of the AID or his/her authorized representative which are docketed with that Board.

(b) Rule 3 (AID). Forwarding of Appeals. When a notice of appeal in any form has been received by the contracting officer, he/she shall endorse

thereon the date of mailing (or date of receipt, if otherwise conveyed) and within 10 days shall forward said notice of appeal to the Board with a copy to the AID General Counsel in Washington, D.C. Following receipt by the Board of the original notice of an appeal (whether through the contracting officer or otherwise), the contractor, the contracting officer, and the AID General Counsel will be promptly advised of its receipt, and the contractor will be furnished a copy of these rules.

(c) Rule 4 (AID). Preparation, Contents, Organization, Forwarding, and Status of Appeal File (Supersedes Rule 4, "Duties of Contracting Officer" of the ASBCA rules in effect on April 1, 1980).

(d) Duties of Contracting Officer. Within 30 days of receipt of an appeal or advice that an appeal has been filed, the contracting officer shall assemble and transmit to the AID General Counsel in Washington, D.C., two copies of all documents pertinent to the appeal, including:

- (1) The decision and findings of fact from which appeal is taken;
- (2) The contract, including specifications and pertinent amendments, plans and drawings;
- (3) All correspondence between the parties pertinent to the appeal, including the letter or letters of claim in response to which the decision was issued;
- (4) All transcripts of any testimony taken during the course of proceedings, and affidavits or statements of any witnesses on the matter in dispute made prior to the filing of the notice of appeal with the Board; and
- (5) Any additional information considered pertinent.

(e) The General Counsel will compile the appeal file from such documents, which file must contain the items enumerated in (d)(1) through (5) of this section and will promptly, and in any event within 65 days after the appeal is docketed by the Board, transmit the appeal file to the Board. The General Counsel will notify the appellant when he/she has compiled the appeal file, will provide him/her with a list of its contents, and will afford him/her an opportunity to examine the complete file at the office of the Board and, if the General Counsel deems it appropriate, at any overseas location, for the purpose of satisfying himself/herself as to the contents, and furnishings or suggesting any additional documentation deemed pertinent to the appeal. After receipt of the foregoing file, as it may be augmented at the time of receipt, the Board will promptly advise the parties.

AIDAR SUBCHAPTER F --
SPECIAL CATEGORIES OF CONTRACTING

PART 734 -- MAJOR SYSTEM ACQUISITION

Authority: Sec. 621, Pub. L. 87-195, 75 Stat. 445 (22 U.S.C. 2381) as amended; E.O. 12163, Sept. 29, 1979, 44 FR 56673; 3 CFR 1979 Comp., p. 435.

734.002-70 AID Policy.

In order for an AID acquisition to be considered a major system acquisition it must meet the criteria of OMB Circular A-109 and FAR Part 34, and must have an estimated value of \$15 million or more during the first year of the contract. All major systems acquisition must be approved in advance by the Procurement Executive.

PART 736 -- CONSTRUCTION AND ARCHITECT - ENGINEER CONTRACTS

SUBPART 736.6 -- ARCHITECT - ENGINEER SERVICES

- 736.602-2 Evaluation boards.
- 736.602-3 Evaluation board functions.
- 736.602-4 Selection authority.
- 736.602-5 Short selection procedure for procurements not to exceed the simplified acquisition threshold.
- 736.603 Collecting data on and appraising firms' qualifications.
- 736.605 Government cost estimate for architect-engineer work.

Authority: Sec. 621, Pub. L. 87-195, 75 Stat. 445, (22 U.S.C. 2381) as amended; E.O. 12163, Sept. 29, 1979, 44 FR 56673; 3 CFR 1979 Comp., p. 435.

SUBPART 736.6 -- ARCHITECT - ENGINEER SERVICES

- 736.602-2 Evaluation boards.
 - (a) - (b) [Reserved]
 - (c) Each evaluation board will include a representative of the Contracting Officer and, as appropriate, the cognizant bureau.
- 736.602-3 Evaluation board functions.

Agency architect-engineer evaluation boards shall perform the following functions:

(a) Prepare a selection memorandum recommending no less than three firms which are considered most highly qualified to perform the required services for submission to the head of the contracting activity for his/her approval. This selection memorandum shall include the information specified in 736.602-3(c).

(b) In evaluating architect-engineer firms, the architect-engineer evaluation board shall apply the following criteria, other criteria established by Agency regulations, and any criteria set forth in the public notice on a particular contract:

(1) Specialized experience of the firm (including each member of joint venture or association) with the type of service required;

(2) Capacity of the firm to perform the work (including any specialized services) within the time limitations;

(3) Past record of performance on contracts with AID or other Government agencies and private industry with respect to such factors as control of costs, quality of work, and ability to meet schedules, to the extent such information is available;

(4) Ability to assign an adequate number of qualified key personnel from the organization, including a competent supervising

representative having considerable experience in responsible positions on work of a similar nature;

(5) The portions of the work the architect-engineer is able to perform with its own forces when required;

(6) Ability of the architect-engineer to furnish or to obtain required materials and equipment;

(7) If the geographical or topographical aspects of the project are deemed vital, familiarity with the locality where the project is situated;

(8) Financial capacity;

(9) Responsibility of the architect-engineer under standards provided in FAR subpart 9.1. No contract may be awarded to a contractor that does not meet these standards;

(10) Volume of work previously awarded to the firm by the Agency, with the object of effecting an equitable distribution of architect-engineer contracts among qualified firms. Each architect-engineer evaluation board shall give favorable consideration, to the fullest extent practicable to the most highly qualified firms that have not had prior experience on Government projects (including small business firms and firms owned by the socially and/or economically deprived).

(c) The evaluation board shall prepare a selection memorandum for the approval of the head of the contracting activity. The selection memorandum will be signed by the board chairman and cleared by each board member. The selection memorandum shall include the following information:

(1) A listing by name of all firms reviewed by the board;

(2) A listing of the evaluation criteria applied;

(3) An analysis of the selection showing the rationale for the board's recommendation;

(4) The board's recommendation of the three most highly qualified firms, in order of preference;

(5) An independent Government cost estimate. The evaluation board shall require the project engineer to develop an independent Government estimate of the cost of the required architect-engineer services. Consideration shall be given to the estimated value of the services to be rendered, the scope, complexity, and the nature of the project and the estimated costs expected to be generated by the work. The independent Government estimate shall be revised as required during negotiation to correct noted deficiencies and reflect changes in or clarification of, the scope of the work to be performed by the architect-engineer. A cost estimate based on the application of percentage factors to cost estimates of the various segments of the work involved, e.g., construction project, may be developed for comparison purposes, but such a cost estimate shall not be used as a substitute for the independent Government estimate.

736.602-4 Selection authority.

(a) The head of the contracting activity or his/her authorized designee shall review the selection memorandum and shall either approve it or return it to the board for reconsideration for specified reasons.

(b) Approval of the selection memorandum by the head of the contracting activity or his/her authorized designee shall serve as authorization for the contracting office to commence negotiation.

736.602-5 Short selection process for procurements not to exceed the simplified acquisition threshold.

References to FAR 36.602-3 and 36.602-4 contained in FAR 36.602-5 shall be construed as references to 736.602-3 and 736.602-4 of this subpart.

736.603 Collecting data on and appraising firms' qualifications.

An AID Consultant Registry Information System (ACRIS) is maintained in Washington by the AID Office of Small and Disadvantaged Business Utilization. Architect-engineers wishing to perform contracts for AID should file the

appropriate form with that office, as provided in section 705.002.
Procurements are publicized in the Commerce Business Daily, as provided in FAR
Part 5.

736.605 Government cost estimate for architect-engineer work.
See 736.602-3(c)(5).

PART 737 -- SERVICE CONTRACTING

Reserved

AIDAR SUBCHAPTER G --
CONTRACT MANAGEMENT

PART 742 -- CONTRACT ADMINISTRATION

(Authority: Sec. 621, Pub. L. 87-195, 75 Stat. 445, (22 U.S.C. 2381) as amended;
E.O. 12163, Sept. 29, 1979, 44 FR 56673; 3 CFR 1979 Comp., p. 435.

SUBPART 742.7 -- INDIRECT COST RATES

742.770 Negotiated Indirect Cost Rate Agreement.

Except for educational institutions having a cognizant agency (as defined in OMB Circular A-88, 44 FR 70094, 12/5/79) other than AID, AID may establish negotiated overhead rates in a Negotiated Indirect Cost Rate Agreement, executed by both parties. The Negotiated Indirect Cost Rate Agreement is automatically incorporated in each contract between the parties and shall specify: (a) The final rate(s), (b) the base(s) to which the rate(s) apply, (c) the period(s) for which the rate(s) apply, (d) the items treated as direct costs, and (e) the contract(s) to which the rate(s) apply. The Negotiated Indirect Cost Rate Agreement shall not change any monetary ceiling, obligation, or specific cost allowance or disallowance provided for in each contract between the parties.

PART 749 -- TERMINATION OF CONTRACTS

SUBPART 749.1 -- GENERAL PRINCIPLES

- 749.100 Scope of subpart.
- 749.111 Review of proposed settlements.
- 749.111-70 Termination settlement review boards.
- 749.111-71 Required review and approval.

Authority: Sec. 621, Pub. L. 87-195, 75 Stat. 445, (22 U.S.C. 2381) as amended;
E.O. 12163, Sept. 29, 1979, 44 FR 56673; 3 CFR 1979 Comp., p. 435.

SUBPART 749.1 -- GENERAL PRINCIPLES

749.100 Scope of subpart.

The Foreign Aid and Related Agencies Appropriation Act, 1963, and subsequent appropriation Acts, have imposed the following requirement:

None of the funds appropriated or made available pursuant to this Act for carrying out the Foreign Assistance Act of 1961, as amended, may be used for making payments on any contract for procurement to which the United States is a party entered into after the date of enactment of this Act which does not contain a provision authorizing the termination of such contract for the convenience of the United States.

See, for example, section 110 of the Foreign Assistance and Related Agencies Appropriation Act, 1965.

749.111 Review of proposed settlements.

749.111-70 Termination settlement review boards.

- (a) The AID Settlement Review Board shall be composed of the

following members or their delegates (except as provided under subsection 749.111-71(b)):

- (1) Procurement Executive;
- (2) Controller;
- (3) General Counsel.

(b) The Procurement Executive or his/her delegate shall be designated as chairman of the board. Delegate members of the board shall have broad business and contracting experience and shall be senior AID officials. Each member or his/her delegate must be in attendance in order to conduct business, and the board shall act by majority vote. No individual shall serve as a member of a board for the review of a proposed settlement if he/she has theretofore reviewed, approved or disapproved or recommended approval, disapproval or other action with respect to any substantive element of such settlement proposal.

(c) The chairman shall appoint a nonvoting recorder who shall be responsible for receiving cases, scheduling and recording the proceedings at meetings, maintaining a log of all cases received by him/her for the board, and other duties as assigned by the board.

749.111-71 Required review and approval.

(a) When required. The AID Settlement Review Board shall receive and approve all AID/W and Mission proposed settlements or determinations if:

(1) The amount of settlement, by agreement or determination, involves \$100,000 or more;

(2) The settlement or determination is limited to adjustment of the fee of a cost-reimbursement contract or subcontract and: (i) in the case of complete termination, the fee, as adjusted, with respect to the terminated portion of the contract or subcontract is \$100,000 or more; or (ii) in the case of a partial termination, the fee, as adjusted, with respect to the terminated portion of the contract or subcontract is \$100,000 or more;

(3) The head of the contracting activity concerned determines that a review of a specific case or class of cases is desirable; or

(4) The contracting officer, in his/her discretion, desires review by the board.

(b) Level of review. Proposed settlements in excess of \$5 million shall be reviewed and approved by a board consisting of the Procurement Executive, the General Counsel, and the Controller, without power of redelegation.

(c) Submission of information. The contracting officer shall submit to the board a statement of the proposed settlement agreement or determination, supported by such detailed information as is required for an adequate review. This information should normally include copies of: (1) the contractor's or subcontractor's settlement proposal, (2) the audit report, (3) the property disposal report and any required approvals in connection therewith, and (4) the contracting officer's memorandum explaining the settlement. The board may, in its discretion, require the submission of additional information.

PART 750 -- EXTRAORDINARY CONTRACTUAL ACTIONS

750.000 Scope of part.

SUBPART 750.70 -- [RESERVED]

SUBPART 750.71 -- EXTRAORDINARY CONTRACTUAL ACTIONS TO PROTECT FOREIGN POLICY INTERESTS OF THE UNITED STATES

750.7100 Scope of subpart.

750.7101 Authority.

750.7102 General policy.

750.7103	Definitions.
750.7104	Types of actions.
750.7105	Approving authorities.
750.7106	Standards for deciding cases.
750.7106-1	General.
750.7106-2	Amendments without consideration.
750.7106-3	Mistakes.
750.7106-4	Informal commitments.
750.7107	Limitations upon exercise of authority.
750.7108	Contractual requirements.
750.7109	Submission of requests by contractors.
750.7109-1	Filing requests.
750.7109-2	Form of requests by contractors.
750.7109-3	Facts and evidence.
750.7110	Processing cases.
750.7110-1	Investigation.
750.7110-2	Intra-agency coordination.
750.7110-3	Submission of cases to the approving authority.
750.7110-4	Processing by approving authority.
750.7110-5	Records.
750.7110-6	Inter-agency coordination.

Authority: Sec. 621, Pub. L. 87-195, 75 Stat. 445, (22 U.S.C. 2381) as amended; E.O. 12163, Sept. 29, 1979, 44 FR 56673; 3 CFR 1979 Comp., p. 435.

750.000 Scope of part.

AID is not among the agencies named in the Act or authorized by the President to take actions under it; however, see Subpart 750.71 -- Extraordinary Contractual Actions to Protect Foreign Policy Interests of the United States.

SUBPART 750.70 -- [RESERVED]

SUBPART 750.71 --
EXTRAORDINARY CONTRACTUAL ACTIONS TO
PROTECT FOREIGN POLICY INTERESTS OF
THE UNITED STATES

750.7100 Scope of subpart.

This subpart sets forth the standards and the procedures for disposition of requests for extraordinary contractual actions under Executive Order 11223.

750.7101 Authority.

(a) Under section 633 of the Foreign Assistance Act of 1961, 75 Stat. 454 (22 U.S.C.2933), as amended; Executive Order 11223, dated May 12, 1965 (30 FR 6635) as amended, Executive Order 12163, dated September 29, 1979 (44 FR 56673), as amended, and International Development Cooperation Agency Delegation of Authority No. 1, dated October 1, 1979 (44 FR 57521), as amended, the Administrator of the Agency for International Development has been granted authority to provide extraordinary contractual relief. The authority is set forth in sections 3 and 4 of Executive Order 11223 as follows:

"Section 3. With respect to cost-type contracts heretofore or hereafter made with nonprofit institutions under which no fee is charged or paid, amendments or modifications of such contracts may be made with or without consideration and may be utilized to accomplish the same things as any original contract could have accomplished, irrespective of the time or circumstances of the making, or of the form of the contract amended or modified, or of the amending or modifying contract and irrespective of rights which may have accrued under the contract or the amendments or modifications thereof.

Section 4. With respect to contracts heretofore or hereafter made,

other than those described in Section 3 of this order, amendments and modifications of such contracts may be made with or without consideration and may be utilized to accomplish the same things as any original contract could have accomplished, irrespective of the time or circumstances of the making, or the form of the contract amended or modified, or of the amending or modifying contract, and irrespective of rights which may have accrued under the contract or the amendments or modifications thereof, if the Secretary of State or the Director of the United States International Development Cooperation Agency (with respect to functions vested in or delegated to the Director) determines in each case that such action is necessary to protect the foreign policy interests of the United States."

(b) The authority delegated to the Director of the International Development Cooperation Agency under Executive Order 11223 has been redelegated to the Administrator, Agency for International Development.

750.7102 General policy.

Extra-contractual claims arising from foreign assistance contracts will be processed in accordance with this subpart, which is similar to that utilized to process claims for extraordinary relief under FAR Part 50, as modified to meet the circumstances involved under the Foreign Assistance Act and the different authority involved.

750.7103 Definitions.

(a) The term "approving authority" as used in this subpart means an officer or official having been delegated authority to approve actions under the Executive Order. This authority is distinguished from authority to take appropriate contractual action pursuant to such approval.

(b) The term "the Executive Order" shall mean Executive Order 11223 (30 FR 6635) as amended, unless otherwise stated.

(c) The term "the Act" shall mean the Foreign Assistance Act of 1961, as amended.

750.7104 Types of actions.

Three types of actions may be taken by or pursuant to the direction of an approving authority under the Executive Order. These are contractual adjustments such as amendments without consideration, correction of mistakes, and formalization of informal commitments.

750.7105 Approving authorities.

All authority to approve actions under this subpart has been delegated to the Procurement Executive.

750.7106 Standards for deciding cases.

750.7106-1 General.

The mere fact that losses occur under a Government contract is not, by itself, a sufficient basis for the exercise of the authority conferred by the Executive Order. Whether, in a particular case, appropriate action such as amendment without consideration, correction of a mistake or ambiguity in a contract, or formalization of an informal commitment, will protect the foreign policy interests of the United States is a matter of sound judgment to be made on the basis of all of the facts of such case. Although it is obviously impossible to predict or enumerate all the types of cases with respect to which action may be appropriate, examples of certain cases or types of cases where action may be proper are set forth in subsections 750.7106-2 through 750.7106-4. Even if all of the factors contained in any of the examples are present, other factors or considerations in a particular case may warrant denial of the request. These examples are not intended to exclude other cases where the approving authority determines that the circumstances warrant action.

750.7106-2 Amendments without consideration.

(a) Where an actual or threatened loss under a foreign assistance contract, however caused, will impair the productive ability of a contractor whose continued performance of any foreign assistance contract or whose continued operation as a source of supply is found to be essential to protect the foreign policy interests of the United States, the contract may be adjusted but only to the extent necessary to avoid such impairment to the contractor's productive ability.

(b) Where a contractor suffers a loss (not merely a diminution of anticipated profits) on a foreign assistance contract as a result of Government action, the character of the Government action will generally determine whether any adjustment in the contract will be made and its extent. Where the Government action is directed primarily at the contractor and is taken by the Government in its capacity as the other contracting party, the contract may be adjusted if fairness so requires; thus where such Government action, although not creating any liability on its part, increases the cost of performance, considerations of fairness may make appropriate some adjustment in the contract.

750.7106-3 Mistakes.

A contract may be amended or modified to correct or mitigate the effect of a mistake, including the following examples;

(a) A mistake or ambiguity which consists of the failure to express or to express clearly in the written contract the agreements as both parties understood them;

(b) A mistake on the part of the contractor which is so obvious that it was or should have been apparent to the contracting officer; and

(c) A mutual mistake as to a material fact.

Amending contracts to correct mistakes with the least possible delay normally will protect the foreign policy interests of the United States by expediting the procurement program and by giving contractors proper assurance that such mistakes will be corrected expeditiously and fairly.

750.7106-4 Informal commitments.

Informal commitments may be formalized under certain circumstances to permit payment to persons who have taken action without a formal contract; for example, where any person, pursuant to written or oral instructions from an officer or official of the Agency and relying in good faith upon the apparent authority of the officer or official to issue such instructions, has arranged to furnish or has furnished property or services to the Agency and/or to a foreign assistance contractor or subcontractor without formal contractual coverage for such property or services. Formalization of commitments under such circumstances normally will protect the foreign policy interests of the United States by assuring persons that they will be treated fairly and paid expeditiously.

750.7107 Limitations upon exercise of authority.

(a) The Executive Order is not authority for:

(1) The use of the cost-plus-a-percentage-of-cost system of contracting;

(2) The making of any contract in violation of existing law relating to limitation on profit or fees;

(3) The waiver of any bid, payment performance or other bond required by law.

(b) No amendments, or modifications shall be entered into under the authority of the Executive Order:

(1) Unless, with respect to cases falling within Section 4 of the Executive Order, a finding is made that the action is necessary to protect the foreign policy interests of the United States;

(2) Unless other legal authority in the Agency is deemed to be lacking or inadequate;

(3) Except within the limits of the amounts appropriated and the statutory contract authorization.

(c) No contract shall be amended or modified unless the request therefor has been filed before all obligations (including final payment) under the contract have been discharged.

(d) No informal commitment shall be formalized unless:

(1) A request for payment has been filed within six months after arranging to furnish or furnishing property or services in reliance upon the commitment;

(2) AID has received the services satisfactorily performed, or has accepted property furnished in reliance on the commitment;

(3) The AID employees alleged to have made the informal commitment have accepted responsibility for making the informal commitment in question; and

(4) AID has taken appropriate action to prevent recurrence.

750.7108 Contractual requirements.

Every contract amended or modified pursuant to this subpart shall contain:

(a) A citation of the Act and Executive Order.

(b) A brief statement of the circumstances justifying the action;

(c) A recital of the finding, with respect to cases falling within Section 4 of the Executive Order, that the action is necessary to protect the foreign policy interests of the United States.

750.7109 Submission of requests by contractors.

750.7109-1 Filing requests.

Any person (hereinafter called the "contractor") seeking an adjustment under standards set forth in subsection 750.7106 may file a request in duplicate with the cognizant contracting officer or his/her duly authorized representative. If such filing is impracticable, requests will be deemed to be properly filed if filed with the Chief of the Office of Procurement, Evaluation Division (M/OP/E), for forwarding to the cognizant contracting officer.

750.7109-2 Form of requests by contractors.

The contractor's request shall normally consist of a letter to the contracting officer providing the information specified in FAR 50.303. (See FAR 50.303)

750.7109-3 Facts and evidence.

The contracting officer or the approving authority may, where considered appropriate, request the contractor to furnish the facts and evidence as described in FAR 50.304. (See FAR 50.304)

750.7110 Processing cases.

750.7110-1 Investigation.

The Chief of the Office of Procurement, Evaluation Division (M/OP/E), shall be responsible for assuring that the cognizant contracting officer in all cases shall make a thorough investigation of all facts and issues relevant to each case. Facts and evidence shall be obtained from contractor and Government personnel, and shall include signed statements of material facts within the knowledge of the individuals where documentary evidence is lacking, and audits where considered necessary to establish financial or cost facts. The investigation shall establish both the facts essential to meeting the standards for deciding the particular case and the essential facts as to who has authority to approve the request.

750.7110-2 Intra-agency coordination.

Prior to the submission of a case to the approving authority recommending extraordinary contractual relief, the claim will be fully developed by the Office of Procurement, Evaluation Division (M/OP/E) and concurrences or comments obtained from the Office of General Counsel for the proposed relief to be granted. Such concurrences or comments shall be incorporated in or accompany the action memorandum submitted for consideration to the approving authority in accordance with 750.7110-3.

750.7110-3 Submission of cases to the approving authority.

Cases to be submitted for consideration shall be forwarded by means of an action memorandum signed by the Chief of the Office of Procurement, Evaluation Division (M/OP/E). The action memorandum shall state:

- (a) The nature of the case;
- (b) The basis for authority to act under subsection 750.7101;
- (c) The findings of fact essential to the case (see 750.7109-3) arranged chronologically with cross references to supporting enclosures;
- (d) The conclusions drawn from applying the standards for deciding cases, as set forth in 750.7106, to the findings of fact;
- (e) The disposition recommended, and, if contractual action is recommended with respect to cases falling within Section 4 of the Executive Order, the opinion of the signer that such action is necessary to protect the foreign policy interest of the United States; and
- (f) The action memorandum shall enclose copies of the contracting officer's findings and recommendations, the evidentiary materials, all other reports and comments of cognizant Government or other officials, and a copy of the contractor's request with a cover sheet providing the following summary information related to the request.
 - (1) Date of request;
 - (2) Date request received by AID;
 - (3) Contract number;
 - (4) Contractor's name and address;
 - (5) Name, address, and phone number of contractor's representative;
 - (6) Name, office symbol, and phone number of cognizant contracting officer;
 - (7) Amount of request.

750.7110-4 Processing by approving authority.

In each case, the approving authority, whether approving or denying the request, shall sign a decision which shall be dated and shall contain the following:

- (a) The name and address of the contractor, the contract identification, and the nature of the request;
- (b) The decision reached and the actual cost or estimated potential cost, if any, of the settlement;
- (c) A concise description of the property or services involved;
- (d) A statement of the circumstances justifying the decision; and
- (e) If some adjustment action is approved with respect to cases falling within section 4 of the Executive Order, a statement in substantially the following form: I find that the action authorized herein is necessary to protect the foreign policy interests of the United States.

750.7110-5 Records.

The following shall be retained in Agency files as a record of each action processed in accordance with this subpart:

- (a) The decision required in subsection 750.7110-4;
- (b) The action memorandum and all enclosures as required in subsection 750.7110-3; and
- (c) A copy of the contractual document implementing any approved contractual action.

750.7110-6 Inter-agency coordination.

(a) General. Where a case involves matters of interest to more than one department or agency, AID should maintain liaison with other departments and agencies of the Government and take such joint action as may be proper under the circumstances, including holding joint meetings.

(b) Cases involving funds of other departments or agencies. Requests for adjustment within any category, involving the funds of another department or agency, shall not be approved by AID until advice is requested and received from the department or agency whose funds are involved.

AIDAR SUBCHAPTER H -- CLAUSES AND FORMS
PART 752 Solicitation Provisions and Contract Clauses
SUBPART 752.2 --
TEXTS OF PROVISIONS AND CLAUSES

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SUBPART 752.70 -- TEXTS OF AID
CONTRACT CLAUSES

752.7000	Scope of subpart.
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752.7021	Changes in Tuition and Fees.
752.7022	Conflicts Between Contract and Catalog.
752.7023	Required Visa Form for AID Participants.
752.7024	Withdrawal of Students.
752.7025	Approvals.
752.7026	Reports.
752.7027	Personnel.
752.7028	Differential and Allowances.
752.7029	Post privileges.

752.7030	Inspection Trips by Contractor's Officers and Executives.
752.7031	Leave and Holidays.
752.7032	International Travel Approval and Notification Requirements.
752.7033	Physical Fitness.
752.7034	Acknowledgment and Disclaimer
752.7035	Public Notices.

SUBPART 752.3-70 -- AID CLAUSE MATRICES -- [Reserved]

Authority: Sec. 621, Pub. L. 87-195, 75 Stat. 445, (22 U.S.C. 2381) as amended; E.O. 12163, Sept. 29, 1979, 44 FR 56673; 3 CFR 1979 Comp., p. 435.

SUBPART 752.2 -- TEXTS OF
PROVISIONS AND CLAUSES

752.200 Scope of subpart.

None of the clauses specified in this subpart are for use in AID personal services contract. For personal services contract clauses, see AIDAR Appendix D -- Direct AID Contracts with U.S. Citizens or U.S. Residents for Personal Services Abroad and AIDAR Appendix J -- Direct AID Contracts with Cooperating Country Nationals and with Third Country Nationals for Personal Services Abroad.

752.202-1 Definitions.

- a. As prescribed in 702.270 and in FAR 2.2, AID contracts use the Definitions clause in FAR 52.202-1 and its Alternate I, as appropriate, and the following additional definitions. (See FAR 52.202)
- b. Alternate 70. For use in all AID contracts. Use in addition to the clause in FAR 52.202-1. (See FAR 52.202)

AID DEFINITIONS CLAUSE -- GENERAL SUPPLEMENT FOR USE IN
ALL AID CONTRACTS (JAN 1990)

- (a) "AID" shall mean the Agency for International Development.
- (b) "Administrator" shall mean the Administrator or the Deputy Administrator of AID.
- (c) When this contract is with an educational institution "Campus Coordinator" shall mean the representative of the Contractor at the Contractor's home institution, who shall be responsible for coordinating the activities carried out under the contract.
- (d) When this contract is with an educational institution "Campus Personnel" shall mean representatives of the Contractor performing services under the contract at the Contractor's home institution and shall include the Campus Coordinator.
- (e) "Consultant" shall mean any especially well qualified person who is engaged, on a temporary or intermittent basis to advise the Contractor and who is not an officer or employee of the Contractor who performs other duties for the Contractor.
- (f) "Contractor employee" shall mean an employee of the Contractor assigned to work under this contract.
- (g) "Cooperating Country or Countries" shall mean the foreign country or countries in or for which services are to be rendered hereunder.
- (h) "Cooperating Government" shall mean the government of the Cooperating Country.
- (i) "Federal Acquisition Regulations (FAR)", when referred to herein shall include Agency for International Development Acquisition Regulations (AIDAR).
- (j) "Government" shall mean the United States Government.
- (k) "Mission" shall mean the United States AID Mission to, or principal AID office in, the Cooperating Country.
- (l) "Mission Director" shall mean the principal officer in the

Mission in the Cooperating Country, or his/her designated representative.

c. Alternate 71. For use in AID contracts with an educational institution for participant training. Use in addition to the clauses in FAR 52.202-1 and in 752.202-1(b) of this chapter. (See FAR 52.202)

AID DEFINITIONS CLAUSE -- SUPPLEMENT FOR CONTRACTS WITH AN
EDUCATIONAL INSTITUTION FOR PARTICIPANT TRAINING (APR 1984)

(a) "Catalog" shall mean any medium by which the Institution publicly announces terms and conditions for enrollment in the Institution, including tuition and fees to be charged. This includes "bulletins," "announcements," or any other similar word the Institution may use.

(b) "Director" shall mean the individual who fills the AID position of Director, Office of International Training, or his/her authorized representative acting within the limits of his/her authority.

(c) "Fees" shall mean those applicable charges directly related to enrollment in the Institution. This shall not include any permit charge (e.g., parking, vehicle registration), or charges for services of a personal nature (e.g., food, housing, laundry) unless specifically called for in this contract.

(d) "Institution" shall mean the educational institution providing services hereunder. The terms "Institution" and "Contractor" are synonymous.

(e) "Tuition" shall mean the amount of money charged by an institution for instruction, not including fees as described in this section.

d. Alternate 72. For use in all AID contracts which involve any performance overseas. Use in addition to the clauses in FAR 52.202-1 and in 752.202-1(b). (See FAR 52.202)

AID DEFINITIONS CLAUSE -- SUPPLEMENT
FOR AID CONTRACTS INVOLVING
PERFORMANCE OVERSEAS (DEC 1986)

(a) "Contractor's Chief of Party" shall mean the representative of the Contractor in the Cooperating Country who shall be responsible for supervision of the performance of all duties undertaken by the Contractor in the Cooperating Country.

(b) "Cooperating Country National (CCN) employee" means an individual who meets the citizenship requirements of 48 CFR 702.170-5 and is hired while residing outside the United States for work in a cooperating country.

(c) "Dependents" shall mean:

(1) Spouse;

(2) Children (including step and adopted children) who are unmarried and under 21 years of age or, regardless of age, are incapable of self support.

(3) Parents (including step and legally adoptive parents), of the employee or of the spouse, when such parents are at least 51 percent dependent on the employee for support; and

(4) Sisters and brothers (including step or adoptive sisters or brothers) of the employee, or of the spouse, when such sisters and brothers are at least 51 percent dependent on the employee for support, unmarried and under 21 years of age, or regardless of age, are incapable of self support.

(d) "Local currency" shall mean the currency of the Cooperating Country.

(e) "Regular employee" shall mean a Contractor employee appointed to serve one year or more in the Cooperating Country.

(f) "Short-term employee" shall mean a Contractor employee appointed to serve less than one year in the Cooperating Country.

(g) "Third Country National (TCN) employee" means an individual who meets the citizenship requirements of 48 CFR 702.170-15 and is hired while residing outside the United States for work in a Cooperating Country.

752.204-2 Security Requirements.

Pursuant to the Uniform State/AID/USIA Regulations (Volume 5, Foreign Affairs Manual, Chapter 900), AID applies the safeguards applicable to "Confidential" information to administratively controlled information designated as "Limited Official Use". Therefore, when the clause in FAR 52.204-2 is used in AID contracts, pursuant to section 704.405, paragraph (a) of the clause is revised as follows: (See 52.204)

"(a) This clause applies to the extent that this contract involves access to classified ('Confidential', 'Secret', or 'Top Secret'), or administratively controlled ('Limited Official Use') information."

752.209-70 Requirement for Past Performance References.

The following provision shall be included in all solicitations substantially as follows:

REQUIREMENT FOR PAST PERFORMANCE
REFERENCES (July 1996)

The offeror shall submit, as part of its proposal, information on recently completed contracts or on-going contracts that are similar to the statement of work in the solicitation performed for federal, state and local governments and for commercial firms. The number of such contracts, as well as the specific details to be provided for each, shall be in accordance with the instructions provided elsewhere in Section L of this solicitation, consistent with the Government-wide past performance information collection requirements in the FAR. The offeror is expected to comply with the instructions in Section L regarding the type and amount of detail to be provided on past performance and the format to be used to submit it. If the offeror does not follow the prescribed format, then care must be taken to ensure that the substance of the requested information is provided. Failure to do so may seriously impede both the technical evaluation of the offeror's proposal and the contracting officer's ability to make a positive responsibility determination.

USAID may contact representatives from the references provided by the offeror to obtain information on the offeror's past performance. The offeror is advised that USAID may obtain past performance information from other than sources identified by the offeror. USAID will use past performance information both for the responsibility determination required in FAR 9.1 and the best value decision in accordance with the instructions in Section L and the evaluation criteria in Section M of this solicitation.

752.209-71 Organizational conflicts of interest discovered
after award.

As prescribed in 709.507-2, for use if one of the FAR organizational conflict of interest solicitation clauses, FAR 52.209-7 or 52.209-8, is used. (See FAR 52.209)

Organizational Conflicts of Interest
Discovered After Award
(June 1993)

(a) The Contractor agrees that, if after award it discovers either an actual or potential organizational conflict of interest with respect to this contract, it shall make an immediate and full disclosure in writing to the Contracting Officer which shall include a description of the action(s) which the Contractor has taken or proposes to take to avoid, eliminate or neutralize the conflict.

(b) The Contracting Officer shall provide the contractor with written instructions concerning the conflict. AID reserves the right to terminate the contract if such action is determined to be in the best interests of the Government.

752.211-70 Language and measurement.

The following clause shall be used in all AID-direct contracts.

Language and Measurement
(June 1992)

(a) The English language shall be used in all written communications between the parties under this contract with respect to services to be rendered and with respect to all documents prepared by the contractor except as otherwise provided in the contract or as authorized by the contracting officer.

(b) Wherever measurements are required or authorized, they shall be made, computed, and recorded in metric system units of measurement, unless otherwise authorized by AID in writing when it has found that such usage is impractical or is likely to cause U.S. firms to experience significant inefficiencies or the loss of markets. Where the metric system is not the predominant standard for a particular application, measurements may be expressed in both the metric and the traditional equivalent units, provided the metric units are listed first.

752.219-8 Utilization of Small Business Concerns and Small Disadvantaged Business Concerns.

The Foreign Assistance Act calls for AID to give small businesses an opportunity to provide supplies and services for foreign assistance projects. To help AID meet this obligation, the following paragraph is to be added to the clause prescribed in FAR 19.708(a): (See FAR 19.708)

AID small business provision. To permit AID, in accordance with the small business provisions of the Foreign Assistance Act, to give small business firms an opportunity to participate in supplying equipment supplies and services financed under this contract, the Contractor shall, to the maximum extent possible, provide the following information to the Office of Small and Disadvantaged Business Utilization (OSDBU), AID, Washington, D.C. 20523-1414, at least 45 days prior to placing any order in excess of the simplified acquisition threshold in FAR 13.000, except where a shorter time is requested of, and granted by OSDBU:

- (1) Brief general description and quantity of commodities or services;
- (2) Closing date for receiving quotations or bids; and
- (3) Address where invitations or specifications may be obtained."

752.225-9 Buy American Act -- Trade Agreements Act -- Balance of Payments Program.

The clause prescribed by FAR 25.408(a)(2) is not generally included in AID contracts when more stringent source requirements are stated in the contract or when inclusion is not appropriate under FAR 25.403, or 725.403 of this subpart. (See Executive Order No. 11223, dated May 12, 1965, 30 FR 6635.) The clause setting forth AID's source restrictions is shown in section 752.7004.

752.226-1 Determination of status as disadvantaged enterprise.

As prescribed in 726.201, insert the following provision:

DISADVANTAGED ENTERPRISE REPRESENTATION
(APRIL 1991)

The offeror/contractor shall submit a representation in the following form to the contracting officer:

- (a) Representation. The offeror represents that:
- (1) It [] is, [] is not a small disadvantaged business.
 - (2) It [] is, [] is not an historically black college or

university, as designated by the Secretary of Education pursuant to 34 CFR 608.2.

(3) It [] is, [] is not a college or university having a student body in which more than 40 percent of the students are Hispanic American.

(4) It [] is, [] is not a private voluntary organization which is controlled by individuals who are socially and economically disadvantaged.

(b) Definitions.

(1) "Asian Pacific Americans," as used in this provision means United States citizens whose origins are in Japan, China, the Philippines, Vietnam, Korea, Samoa, Guam, the U.S. Trust Territory of the Pacific Islands (Republic of Palau), the Northern Mariana Islands, Laos, Kampuchea (Cambodia), Taiwan, Burma, Thailand, Malaysia, Indonesia, Singapore, Brunei, Republic of the Marshall Islands, or the Federated States of Micronesia.

(2) "Controlled by socially and economically disadvantaged individuals" means management and daily business are controlled by one or more such individuals.

(3) "Native Americans," as used in this provision means American Indians, Eskimos, Aleuts, and native Hawaiians.

(4) "Owned by socially and economically disadvantaged individuals" means at least 51 percent owned by one or more individuals who are both socially and economically disadvantaged, or a publicly owned business having at least 51 percent of its stock owned by one or more socially and economically disadvantaged individuals.

(5) "Small business concern," as used in this provision, means a U.S. concern, including its affiliates, that is independently owned and operated, not dominant in the field of operation in which it is bidding on Government contracts, and qualifies as a small business under the criteria and size standards in 13 CFR 121.

(6) "Small disadvantaged business," as used in this provision, means a small business concern that:

(i) Is at least 51 percent owned by one or more individuals who are both socially and economically disadvantaged, or a publicly owned business having at least 51 percent of its stock owned by one or more socially and economically disadvantaged individuals; and

(ii) Has its management and daily business controlled by one or more such individuals.

(7) "Subcontinent Asian Americans," as used in this provision, means United States citizens whose origins are in India, Pakistan, Bangladesh, Sri Lanka, Bhutan, or Nepal.

(c) Qualified groups. The offeror shall presume that socially and economically disadvantaged individuals include Black Americans, Hispanic Americans, Native Americans, Asian-Pacific Americans, Subcontinent Asian Americans, and women.

752.226-2 Subcontracting with Disadvantaged Enterprises.

As prescribed in 726.301, insert the following clause:

SUBCONTRACTING WITH DISADVANTAGED ENTERPRISES

(APRIL 1991)

Note: This clause does not apply to prime contractors that qualify as disadvantaged enterprises as described below.

(a) Not less than ten (10) percent of the dollar value of this contract shall be subcontracted to disadvantaged enterprises as described in paragraph (b) of this clause.

(b) Disadvantaged enterprises are U.S. organizations or individuals that are:

(1) Business concerns (as defined in FAR 19.001) owned and

controlled by socially and economically disadvantaged individuals; (See FAR 19.001)

(2) Institutions designated by the Secretary of Education, pursuant to 34 CFR 608.2, as historically black colleges and universities:

(3) Colleges and universities having a student body in which more than 40 percent of the students are Hispanic American; or

(4) Private voluntary organizations which are controlled by individuals who are socially and economically disadvantaged.

(c) Definitions.

(1) "Controlled by socially and economically disadvantaged individuals" means management and daily business are controlled by one or more such individuals.

(2) "Owned by socially and economically disadvantaged individuals" means at least 51 percent owned by one or more individuals who are both socially and economically disadvantaged, or a publicly owned business having at least 51 percent of its stock owned by one or more socially and economically disadvantaged individuals.

(3) "Socially and economically disadvantaged individuals" has the same meaning as in FAR 19.001, except that the term also includes women. Any individual who certifies that he or she is a Black American, Hispanic American, Native American (as defined in FAR 19.001), Asian-Pacific American (as defined in FAR 19.001), Subcontinent-Asian American (as defined in FAR 19.001), or a woman shall be presumed to be a socially and economically disadvantaged individual. (See FAR 19.001)

(d) Contractors should require representations from their subcontractors regarding their status as a disadvantaged enterprise. Contractors acting in good faith may rely on such representations by their subcontractors.

752.226-3 Limitation on Subcontracting.

As prescribed in 726.302, insert the following clause:

Limitations on Subcontracting (June 1993)

By submission of an offer and execution of a contract, the Offeror/Contractor agrees that in performance of the contract, at least 51 percent of the cost of contract performance incurred for personnel shall be expended for employees of the contractor or employees of other disadvantaged enterprises eligible under the terms of 706.302-71. For the purposes of this clause, independent contractors hired by the contractor shall be considered employees of the contractor.

752.228-3 Worker's Compensation Insurance (Defense Base Act).

As prescribed in 728.309, the following supplemental coverage is to be added to the clause specified in FAR 52.228-3 by the AID contracting officer. (See FAR 52.228)

(a) The Contractor agrees to procure Defense Base Act (DBA) insurance pursuant to the terms of the contract between AID and AID's DBA insurance carrier unless the Contractor has a DBA self insurance program approved by the Department of Labor or has an approved retrospective rating agreement for DBA.

(b) If AID or the Contractor has secured a waiver of DBA coverage (see AIDAR 728.305-70(a)) for contractor's employees who are not citizens of, residents of, or hired in the United States, the contractor agrees to provide such employees with worker's compensation benefits as required by the laws of the country in which the employees are working, or by the laws of the employee's native country, whichever offers greater benefits.

(c) The Contractor further agrees to insert in all subcontracts hereunder to which the DBA is applicable, a clause similar to this clause,

including this sentence, imposing on all subcontractors a like requirement to provide overseas workmen's compensation insurance coverage and obtain DBA coverage under the AID requirements contract.

752.228-7 Insurance -- Liability to Third Persons.

As prescribed in 728.307-2 (c), the following paragraph is to be added to the clause specified in FAR 52.228-7 as either paragraph (h) (if FAR 52.228-7 Alternate I is not used) or (i) (if FAR 52.228-7 Alternate I is used): (See FAR 52.228)

() Insurance on private automobiles. If the Contractor or any of its employees or their dependents transport or cause to be transported (whether or not at contract expense) privately owned automobiles to the Cooperating Country, or they or any of them purchase an automobile within the Cooperating Country, the Contractor agrees to make certain that all such automobiles during such ownership within the Cooperating Country will be covered by a paid-up insurance policy issued by a reliable company providing the following minimum coverages or such other minimum coverages as may be set by the Mission Director, payable in United States dollars or its equivalent in the currency of the Cooperating Country: injury to persons, \$10,000/\$20,000; property damage, \$5,000. The premium costs for such insurance shall not be a reimbursable cost under this contract. Copies of such insurance policies shall be preserved and made available as part of the Contractor's records which are required to be preserved and made available by the "Examination of Records by the Comptroller General" and "Audit" clauses of this contract.

752.228-9 Cargo Insurance.

As prescribed in 728.313 (a), the following preface is to be used preceding the text of the clause at FAR 52.228-9:
(FAR 52.228)

Preface: To the extent that marine insurance is necessary or appropriate under this contract, the contractor shall ensure that U.S. marine insurance companies are offered a fair opportunity to bid for such insurance. This requirement shall be included in all subcontracts under this contract.

752.228-70 Medical Evacuation (MEDEVAC) Services

As prescribed in 728.307-70, for use in all contracts requiring performance overseas:

Medical Evacuation (MEDEVAC) Services (Mar 1993)

(a) Contractors agree to provide MEDEVAC service coverage to all U.S. citizen, U.S. resident alien, and Third Country National employees and their authorized dependents while overseas under an AID financed direct contract. Coverage shall be obtained pursuant to the terms of the contract between AID and AID's MEDEVAC service provider unless exempted in accordance with paragraph (b) of this clause.

(b) The following are exempted from the requirements in paragraph (a) of this clause:

(i) Eligible employees and their dependents with a health program that includes sufficient MEDEVAC coverage as approved by the Contracting Officer.

(ii) Eligible employees and their dependents located at Missions where the Mission Director makes a written determination to waive the requirement for such coverage based on findings that the quality of local medical services or other circumstances obviate the need for such coverage.

(c) Contractors further agree to insert in all subcontracts hereunder to which the MEDEVAC coverage is applicable, a clause similar to this clause,

including this sentence, imposing on all subcontractors a like requirement to provide medical evacuation services coverage and obtain MEDEVAC coverage in accordance with the contract between AID and AID's MEDEVAC service provider.

752.229-70 Federal, State and Local Taxes.

For contracts involving performance overseas the clauses prescribed in FAR 29.401-3 or 29.401-4 may be modified to specify that the taxes referred to are United States taxes. (See FAR 29.401)

752.232-7 Payments under Time-and-Materials and Labor-Hour Contracts.

AID uses the payment provision contained in FAR 52.232-7 in indefinite quantity contracts for professional services up to 120 days, as provided in AIDAR 716.501(c). (See FAR 52.232) When this provision is used the following preamble will be included:

For the purposes of this clause certain terms shall be interpreted as follows: The term "contract(s)" includes "delivery order(s)"; "hour(s)", or "hourly" may be calculated in terms of "day(s)" or "daily (8 hours)"; and "materials" includes "other direct costs".

752.232-70 Letter of Credit Advance Payment.

As required by 732.406.73, insert the following clause in contracts being paid by Letter of Credit.

LETTER OF CREDIT ADVANCE PAYMENT
(OCT 1989)

(a) Payment under this contract shall be by means of a Letter of Credit (LOC) in accordance with the terms and conditions of the LOC and any instructions issued by the AID Office of Financial Management, Cash Management and Payment Division (FM/CMP).

(b) As long as the LOC is in effect, the terms and conditions of the LOC and any instructions issued by FM/CMP constitute the payment conditions of this contract, superseding and taking precedence over any other clause of this contract concerning payment.

(c) If the LOC is revoked, payment may be made on a cost-reimbursement basis, in accordance with the other clauses of this contract concerning payment.

(d) Revocation of the LOC is at the discretion of FM/CMP after consultation with the contracting officer. Notification to the contractor of revocation must be in writing and must specify the reasons for such action. The contractor may appeal any such revocation to the contracting officer, in accordance with the Disputes clause of this contract. Pending final decision, payments under the contract will be in accordance with paragraph (c) of this clause.

752.245-70 Government Property -- AID Reporting Requirements.

In response to a GAO audit recommendation, AID contracts must contain the following preface and reporting requirement as additions to the appropriate Government Property clause prescribed by FAR 45.106.
(See FAR 45.106)

Preface: to be inserted preceding the text of the FAR clause.

The term "Government furnished property" wherever it may appear in the following clause, shall mean (1) non-expendable personal property owned by or leased to the U.S. Government and furnished to the contractor and (2) personal property furnished either prior to or during the performance of this contract by any U.S. Government accountable officer to the contractor for use in connection with performance of this contract and identified by such officer as

accountable. The term "government property", wherever it may appear in the following clause, shall mean government-furnished property and non-expendable personal property title to which vests in the U.S. Government under this contract. Non-expendable property, for purposes of this contract, is defined as property which is complete in itself, does not lose its identity or become a component part of another article when put into use; is durable, with an expected service life of two years or more; and which has a unit cost of more than \$500.

Reporting Requirement: to be inserted following the text of the FAR clause.

Reporting Requirements: The contractor will submit an annual report on all non-expendable property in a form and manner acceptable to AID substantially as follows:

(continued on next page)

ANNUAL REPORT OF GOVERNMENT PROPERTY
IN CONTRACTOR'S CUSTODY

(Name of Contractor)

As of (End of Contract Year), 19xx

	Motor Vehicles	Furniture and furnishings--		Other
non-expendable		Office	Living quarters	property

A. Value of property as of last report.				
B. Transactions dur- ing this reporting period.				
1. Acquisitions (add):				
a. Purchased by contractor 1/				
b. Transferred from AID 2/				
c. Transferred from others- Without reim- bursement 3/				
2. Disposals (deduct):				
a. Returned to AID				
b. Transferred to AID-Contractor Purchased				
c. Transferred to other Government agencies 3/				
d. Other disposals 3/				
C. Value of property as of reporting date.				
D. Estimated average age of contractor held property				
	Years	Years	Years	

1/ Property which is complete in itself, does not lose its identity or become a component part of another article when put into use; is durable, with an expected service life of two years or more; and which has a unit cost of more than \$500.

2/ Government furnished property listed in this Contract as non-expendable.

3/ Explain if transactions were not processed through or otherwise authorized by AID

PROPERTY INVENTORY VERIFICATIONS

I attest that (1) physical inventories of Government property are taken not less frequently than annually; (2) the accountability records maintained for Government property in our possession are in agreement with such inventories; and (3) the total of the detailed accountability records maintained agrees with the property value shown opposite line C above, and the estimated average age of each category of property is as cited opposite line D above.

Authorized Signature.

752.245-71 Title to and Care of Property.

It is AID policy to vest title with the cooperating country for contractor acquired property used in a cooperating country. The following clause is for use in all AID contracts under which the contractor will acquire property for use overseas under the contract.

TITLE TO AND CARE OF PROPERTY
(APR 1984)

(a) Title to all non-expendable property purchased with contract funds under this contract and used in the Cooperating Country, shall at all times be in the name of the Cooperating Government, or such public or private agency as the Cooperating Government may designate, unless title to specified types or classes of non-expendable property is reserved to AID under provisions set forth in the schedule of this contract; but all such property shall be under the custody and control of Contractor until the owner of title directs otherwise, or completion of work under this contract or its termination, at which time custody and control shall be turned over to the owner of title or disposed of in accordance with its instructions. All performance guaranties and warranties obtained from suppliers shall be taken in the name of the title owner. (Non-expendable property is property which is complete in itself, does not lose its identity or become a component part of another article when put into use; is durable, with an expected service life of two years or more; and which has a unit cost of \$500 or more.

(b) Contractor shall prepare and establish a program, to be approved by the Mission, for the receipt, use, maintenance, protection, custody, and care of non-expendable property for which it has custodial responsibility, including the establishment of reasonable controls to enforce such program.

(c)(1) For non-expendable property to which title is reserved to the U.S. Government under provisions set forth in the schedule of this contract, Contractor shall submit an annual report on all non-expendable property under its custody as required in the clause of this contract entitled "Government Property".

(2) For non-expendable property titled to the Cooperating Government, the Contractor shall, within 90 days after completion of this contract, or at such other date as may be fixed by the Contracting Officer, submit an inventory schedule covering all items of non-expendable property under its custody, which have not been consumed in the performance of this contract. The Contractor shall also indicate what disposition has been made of such property.

SUBPART 752.70 -- TEXTS OF
AID CONTRACT CLAUSES

752.7000 Scope of subpart.

Subpart 752.70 contains the text of AID-specific contract clauses for which there is no FAR equivalent. The clauses in this Subpart do not apply to contracts for personal services. For personal service contract clauses see AIDAR Appendix D -- Direct AID Contracts with U.S. Citizens or U.S. Residents for Personal Services Abroad and AIDAR Appendix J -- Direct AID Contracts with Cooperating Country Nationals and with Third Country Nationals for Personal Services Abroad.

752.7001 Biographical Data.
This clause is required in all AID contracts.

BIOGRAPHICAL DATA (DEC 1988)

(a) The Contractor agrees to furnish to the Contracting Officer on AID

Forms 1420-17, "Contractor Employee Biographical Data Sheet",** biographical information on the following individuals to be employed in the performance of the contract: (1) All individuals to be sent outside of the United States, (2) any employees designated as "key personnel". Biographical data in the form usually maintained by the Contractor on the other individuals employed under the contract shall be available for review by AID at the Contractor's headquarters. A supply of AID Form 1420-17 will be provided with this contract. The Contractor may reproduce additional copies as necessary.

**The Contractor Employee Biographical Data Sheet appears at the end of the AIDAR. It appears as an attachment only for the reader's convenience.

(b) Emergency locator information. The Contractor agrees to provide the following information to the Mission Administrative Officer on or before the arrival in the host country of every contract employee or dependent:

(1) The individual's full name, home address, and telephone number.

(2) The name and number of the contract, and whether the individual is an employee or dependent.

(3) The contractor's name, home office address, and telephone number, including any after-hours emergency number(s), and the name of the contractor's home office staff member having administrative responsibility for the contract.

(4) The name, address, and telephone number(s) of each individual's next of kin.

(5) Any special instructions pertaining to emergency situations such as power of attorney designees or alternate contact persons.

752.7002 Travel and Transportation.

For use in cost reimbursement contracts performed in whole or in part overseas.

TRAVEL AND TRANSPORTATION (JAN 1990)

(a) General. The Contractor will be reimbursed for reasonable, allocable and allowable travel and transportation expenses incurred under and for the performance of this contract. Determination of reasonableness, allocability and allowability will be made by the Contracting Officer based on the applicable cost principles, the Contractor's established policies and procedures, AID's established policies and procedures for AID direct-hire employees, and the particular needs of the project being implemented by this contract. The following paragraphs provide specific guidance and limitations on particular items of cost.

(b) International travel. For travel to and from post of assignment the Contractor shall be reimbursed for travel costs and travel allowances of travelers from place of residence in the United States (or other location provided that the cost of such travel does not exceed the cost of the travel from the employee's residence in the United States) to the post of duty in the Cooperating Country and return to place of residence in the United States (or other location provided that the cost of such travel does not exceed the cost of travel from the post of duty in the Cooperating Country to the employee's residence) upon completion of services by the individual. Reimbursement for travel will be in accordance with the applicable cost principles and the provisions of this contract, and will be limited to the cost of travel by the most direct and expeditious route. If a regular employee does not complete one full year at post of duty (except for reasons beyond his/her control), the costs of going to and from the post of duty for that employee and his/her

dependents are not reimbursable hereunder. If the employee serves more than one year but less than the required service in the Cooperating Country (except for reasons beyond his/her control) the costs of going to the post of duty are reimbursable hereunder but the costs of going from post of duty to the employee's permanent, legal place of residence at the time he or she was employed for work under this contract or other location as approved by the Contracting Officer are not reimbursable under this contract for the employee and his/her dependents. When travel is by economy class accommodations, the Contractor will be reimbursed for the cost of transporting up to 22 pounds of accompanied personal baggage per traveler in addition to that regularly allowed with the economy ticket provided that the total number of pounds of baggage does not exceed that regularly allowed for first class travelers. Travel allowances for travelers shall not be in excess of the rates authorized in the Standardized Regulations (Government Civilians, Foreign Areas) -- hereinafter referred to as the Standardized Regulations -- as from time to time amended, for not more than the travel time required by scheduled commercial air carrier using the most expeditious route. One stopover en route for a period of not to exceed 24 hours is allowable when the traveler uses economy class accommodations for a trip of 14 hours or more of scheduled duration. Such stopover shall not be authorized when travel is by indirect route or is delayed for the convenience of the traveler. Per diem during such stopover shall be paid in accordance with the established practice of the Contractor but not to exceed the amounts stated in the Standardized Regulations.

(c) Local travel. Reimbursement for local travel in connection with duties directly referable to the contract shall not be in excess of the rates established by the Mission Director for the travel costs of travelers in the Cooperating Country. In the absence of such established rates the Contractor shall be reimbursed for actual travel costs of travelers in the Cooperating Government or the Mission, including travel allowances at rates not in excess of those prescribed by the Standardized Regulations.

(d) Travel for consultation. The Contractor shall be reimbursed for the round trip of the Contractor's Chief of Party in the Cooperating Country or other designated Contractor employee or consultant in the Cooperating Country performing services required under this Contract, for travel from the Cooperating Country to the Contractor's office in the United States or to AID/Washington for consultation and return on occasions deemed necessary by the Contractor and approved in advance, in writing, by the Contracting Officer or the Mission Director.

(e) Special international travel and third country travel. For special travel which advances the purpose of the contract, which is not otherwise provided by the Cooperating Government, and with the prior written approval of the Contracting Officer or the Mission Director, the Contractor shall be reimbursed for (i) the travel cost of travelers other than between the United States and the Cooperating Country and for local travel within other countries and (ii) travel allowance for travelers while in travel status and while performing services hereunder in such other countries at rates not in excess of those prescribed by the Standardized Regulations.

(f) Indirect travel for personal convenience. When travel is performed by an indirect route for the personal convenience of the traveler, the allowable costs of such travel will be computed on the basis of the cost of allowable air fare via the direct usually traveled route. If such costs include fares for air or ocean travel by foreign flag carriers, approval for indirect travel by such foreign flag carriers must be obtained from the Contracting Officer or the Mission Director before such travel is undertaken, otherwise only that portion of travel accomplished by United States-flag carriers will be reimbursable within the above limitation of allowable costs.

(g) Limitation on travel by dependents. Travel costs and allowances will be allowed only for dependents of regular employees and such costs shall be reimbursed for travel from place of abode to assigned station in the Cooperating Country and return, only if dependent remains in the country for

at least 9 months or one-half of the required tour of duty of the regular employee responsible for such dependent, whichever is greater. If the dependent is eligible for educational travel pursuant to the "Differential and Allowances" clause of this contract, time spent away from post resulting from educational travel will be counted as time at post.

(h) Delays en route. The Contractor may grant to travelers under this contract reasonable delays en route while in travel status when such delays are caused by events beyond the control of such traveler or Contractor. It is understood that if delay is caused by physical incapacitation, personnel shall be eligible for such sick leave as provided under the "Leave and Holidays" clause of this contract.

(i) Travel by privately owned automobile. The Contractor shall be reimbursed for the cost of travel performed by a regular employee in his/her privately owned automobile at a rate not to exceed that authorized in the Federal Travel Regulations plus authorized per diem for the employee and for each of the authorized dependents traveling in the automobile, if the automobile is being driven to or from the Cooperating Country as authorized under the contract, provided that the total cost of the mileage and the per diem paid to all authorized travelers shall not exceed the total constructive cost of fare and normal per diem by all authorized travelers by surface common carrier or authorized air fare, whichever is less.

(j) Emergency and irregular travel and transportation. Emergency transportation costs and travel allowances while en route, as provided in this section will also be reimbursed not to exceed amounts authorized by the Foreign Service Travel Regulations for AID-direct hire employees in like circumstances under the following conditions:

(1) The costs of going from post of duty in the Cooperating Country to the employee's permanent, legal place of residence at the time he or she was employed for work under this contract or other location for Contractor employees and dependents and returning to the post of duty, when the Contractor's Chief of Party, with the concurrence of the Contracting Officer or Mission Director makes a written determination that such travel is necessary for one of the reasons specified in subparagraphs (j)(1)(i) and (ii) of this section. A copy of the written determination shall be furnished to the Contracting Officer.

(i) Need for medical care beyond that available within the area to which the employee is assigned, or serious effect on physical or mental health if residence is continued at assigned post of duty, subject in either case, to the limitations stated in the clause of this contract entitled "Personnel - Physical Fitness of Employee and Dependents." The Mission Director may authorize a medical attendant to accompany the employee at contract expense if, based on medical opinion, such an attendant is necessary.

(ii) Death, or serious illness or injury of a member of the immediate family of the employee or the immediate family of the employee's spouse.

(2) When, for any reason, the Mission Director determines it is necessary to evacuate the Contractor's entire team (employees and dependents) or Contractor dependents only, the Contractor will be reimbursed for travel and transportation expenses and travel allowance while en route, for the cost of the individuals going from post of duty in the Cooperating Country to the employee's permanent, legal place of residence at the time he or she was employed for work under this contract or other approved location. The return of such employees and dependents may also be authorized by the Mission Director when, in his/her discretion, he/she determines it is prudent to do so.

(3) The Mission Director may also authorize emergency or irregular travel and transportation in other situations, when in his/her opinion, the circumstances warrant such action. The authorization shall include the kind of leave to be used and appropriate restrictions as to time away from post, transportation of personal and/or household effects, etc. Requests for such emergency travel shall be submitted through the Contractor's

Chief of Party.

(k) Home leave travel. To the extent that home leave has been authorized as provided in the "Leave and Holidays" clause of this contract, the cost of travel for home leave is reimbursable for travel costs and travel allowances of travelers from the post of duty in the Cooperating Country to place of residence in the United States (or other location provided that the cost of such travel does not exceed the cost of travel to the employee's residence in the United States) and return to the post of duty in the Cooperating Country. Reimbursement for travel will be in accordance with the applicable cost principles and the provisions of this contract, and will be limited to the cost of travel by the most direct and expeditious route. When travel is by economy class accommodations, the Contractor will be reimbursed for the cost of transporting up to 22 pounds of accompanied personal baggage per traveler in addition to that regularly allowed with the economy ticket provided that the total number of pounds of baggage does not exceed that regularly allowed for first class travelers. Travel allowances for travelers shall not be in excess of the rates authorized in the Standardized Regulations as from time to time amended, for not more than the travel time required by scheduled commercial air carrier using the most expeditious route. One stopover en route for a period of not to exceed 24 hours is allowable when the traveler uses economy class accommodations for a trip of 14 hours or more of scheduled duration. Such stopover shall not be authorized when travel is by indirect route or is delayed for the convenience of the traveler. Per diem during such stopover shall be paid in accordance with the established practice of the Contractor but not to exceed the amounts stated in the Standardized Regulations.

(l) Rest and recuperation travel. The Contractor shall be reimbursed for the cost of travel performed by regular employees and dependents for purposes of rest and recuperation provided that such reimbursement does not exceed that authorized for AID direct hire employees, and provided further that no reimbursement will be made unless approval is given by the Contractor's Chief of party.

(m) Transportation of motor vehicles, personal effects and household goods.

(1) Transportation, including packing and crating costs, will be paid for shipping from the point of origin in the United States (or other location as approved by the Contracting Officer) to post of duty in the Cooperating Country and return to point of origin in the United States (or other location as approved by the Contracting Officer) of one privately-owned vehicle for each regular employee, personal effects of travelers and household goods of each regular employee not to exceed the limitations in effect for such shipments for AID direct hire employees in accordance with the Foreign Service Travel Regulations as in effect when shipment is made.

(2) If a regular employee does not complete one full year at post of duty (except for reasons beyond his/her control), the costs for transportation of vehicles, effects and goods to and from the post of duty are not reimbursable hereunder. If the employee serves more than one year but less than the required service in the Cooperating Country (except for reasons beyond his/her control) the costs for transportation of vehicles, effects and goods to the post of duty are reimbursable hereunder but the costs for transportation of vehicles, effects and goods from post of duty to the employee's permanent, legal place of residence at the time he or she was employed for work under this contract or other location as approved by the Contracting Officer are not reimbursable under this contract.

(3) The cost of transporting motor vehicles and household goods shall not exceed the cost of packing, crating and transportation by surface. In the event that the carrier does not require boxing or crating of motor vehicles for shipment to the Cooperating Country, the cost of boxing or crating is not reimbursable. The transportation of a privately-owned motor vehicle for a regular employee may be authorized by the Contractor as replacement of the last such motor vehicle shipped under this contract for the

employee when the Mission Director or his/her designee determines in advance and so notifies the Contractor in writing that the replacement is necessary for reasons not due to the negligence or malfeasance of the regular employee. The determination shall be made under the same rules and regulations that apply to Mission employees.

(n) Unaccompanied baggage. Unaccompanied baggage is considered to be those personal belongings needed by the traveler immediately upon arrival at destination. To permit the arrival of effects to coincide with the arrival of regular employees and dependents, consideration should be given to advance shipments of unaccompanied baggage. The Contractor will be reimbursed for costs of shipment of unaccompanied baggage (in addition to the weight allowance for household effects) not to exceed the limitations in effect for AID direct hire employees in accordance with the Foreign Service Travel Regulations as in effect when shipment is made.

This unaccompanied baggage may be shipped as air freight by the most direct route between authorized points of origin and destination regardless of the modes of travel used. This provision is applicable to home leave travel and to short-term employees when these are authorized by the terms of this contract.

(o) Storage of household effects. The cost of storage charges (including packing, crating, and drayage costs) in the U.S. of household goods of regular employees will be permitted in lieu of transportation of all or any part of such goods to the Cooperating Country under paragraph (m) above provided that the total amount of effects shipped to the Cooperating Country or stored in the U.S. shall not exceed the amount authorized for AID direct hire employees under the Uniform Foreign Service Travel Regulations.

(p) International ocean transportation.

(1) Flag eligibility requirements for ocean carriage are covered by the "Source and Nationality Requirements" clause of this contract.

(i) Transportation of things. Where U.S. flag vessels are not available, or their use would result in a significant delay, the Contractor may obtain a release from this requirement from the Transportation Division, Office of Procurement, Agency for International Development, Washington, D.C. 20523-1419, or the Mission Director, as appropriate, giving the basis for the request.

(ii) Transportation of persons. Where U.S. flag vessels are not available, or their use would result in a significant delay, the Contractor may obtain a release from this requirement from the Contracting Officer or the Mission Director, as appropriate.

(2) Transportation of foreign-made vehicles. Reimbursement of the costs of transporting a foreign-made motor vehicle will be made in accordance with the provisions of the Foreign Service Travel Regulations.

(3) Reduced rates on U.S. flag carriers. Reduced rates on United States flag carriers are in effect for shipments of household goods and personal effects of AID contract personnel. These reduced rates are available provided the shipper states on the bill of lading that the cargo is "Personal property-not for resale-payment of freight charges is at U.S. Government (AID) expense and any special or diplomatic discounts accorded this type cargo are applicable." The Contractor will not be reimbursed for shipments of household goods or personal effects in an amount in excess of the reduced rates available in accordance with the foregoing.

752.7003 Documentation for Payment.

The following clause is required in all AID-direct cost-reimbursement contracts:

DOCUMENTATION FOR PAYMENT (APR 1984)

(a) Claims for reimbursement under this contract shall be submitted to the Paying Office indicated on the cover page of this contract. The

authorized Certifying Officer of the Paying Office is the designated representative of the Contracting Officer, authorized to approve vouchers under this contract. The Contractor shall submit a Voucher Form SF-1034 (original) and SF-1034(a) in three copies. Each voucher shall be identified by the appropriate AID contract number, properly executed, in the amount of dollar expenditures made during the period covered. The voucher forms shall be supported by:

- (1) Original and three copies of a certified fiscal report rendered by the Contractor in a form and manner satisfactory to AID substantially as follows:

(continued on next page)

TOTAL EXPENDITURES

Category	Budget Amount	To Date	This Period (indicate dates)
Salaries and wages:			
Home office	\$XXX	\$XXX	\$XXX
Field office	XXX	XXX	XXX
Indirect costs:			
Home office	XXX	XXX	XXX
Field office	XXX	XXX	XXX
Consultant fees	XXX	XXX	XXX
Allowances	XXX	XXX	XXX
Travel and transportation	XXX	XXX	XXX
Expendable equipment and materials	XXX	XXX	XXX
Non-expendable property	XXX	XXX	XXX
Participant costs	XXX	XXX	XXX
Other direct costs	XXX	XXX	XXX
Grand Total	\$ XXX	\$XXX	\$XXX

(2) The fiscal report shall include a certification, signed by an authorized representative of the Contractor, as follows:

The undersigned hereby certifies that (i) the fiscal report and any attachments have been prepared from the books and records of the Contractor in accordance with the terms of this contract, and to the best of my knowledge and belief, that they are correct, that the sum claimed under this Contract is proper and due, that all the costs of contract performance (except as herewith reported in writing) have been paid or will be paid currently by the Contractor when due in the ordinary course of business, that the work reflected by the costs above has been performed, that the quantities and amounts involved are consistent with the requirements of this Contract, that all required Contracting Officer approvals have been obtained, and (ii) appropriate refund to AID will be made promptly upon request in the event of disallowance of costs not reimbursable under the terms of this Contract.

BY: _____
TITLE: _____
DATE: _____

(3) Unless otherwise provided in this contract, the Contractor shall submit a vendor's invoice detailing the quantity, description, and price for each individual item purchased, as follows:

(i) Expendable equipment, supplies, or commodities -- for transactions totaling more than \$2,500.

(ii) Non-expendable property -- for every purchase. Non-expendable property is property which is complete in itself, does not lose its identity or become a component part of another article when put into use; is durable, with an expected service life of two years or more; and which has a unit cost of more than \$500.

(iii) The bill of lading or airway bill as evidence of shipment by U.S.-flag carrier.

(b) Local currency payment. The Contractor is fully responsible for

the proper expenditure and control of local currency, if any, provided under this contract. Local currency will be provided to the Contractor in accordance with written instruction provided by the Mission Director. The written instructions will also include accounting, vouchering, and reporting procedures. A copy of the instructions shall be provided to the Contractor's Chief of Party and to the Contracting Officer. The costs of bonding personnel responsible for local currency are reimbursable under this contract.

(c) Upon compliance by the Contractor with all the provisions of this contract, acceptance by the Government of the work and final report, and a satisfactory accounting by the Contractor of all Government-owned property for which the Contractor had custodial responsibility, the Government shall promptly pay to the Contractor any moneys (dollars or local currency) due under the completion voucher. The Government will make suitable reduction for any disallowance or indebtedness by the Contractor by applying the proceeds of the voucher first to such deductions and next to any unliquidated balance of advance remaining under this contract.

(d) The Contractor agrees that all approvals of the Mission Director and the Contracting Officer which are required by the provisions of this contract shall be preserved and made available as part of the Contractor's records which are required to be presented and made available by the clauses of this contract entitled "Examination of Records by Comptroller General" and "Audit".

752.7004 Source and Nationality Requirements.

The following clause is required in all AID contracts under which the contractor will procure goods or services.

SOURCE AND NATIONALITY REQUIREMENTS (APRIL 1989)

(a) General. Except as may be specifically approved or directed in advance by the Contracting Officer, all goods (e.g., equipment, vehicles, materials and supplies), and services which will be financed under this contract with United States dollars shall be procured in and shipped from the United States, or from any other countries within the authorized geographic code or codes specified in the schedule of this contract. Guidance on eligibility of specific goods or services may be obtained from the Contracting Officer. AID policies on source and nationality requirements are contained in Chapter 310 of AID's Automated Directives System (ADS).

(b) Ocean and air transportation.

(1) Except as otherwise approved in writing by the Contracting Officer, AID will finance only those ocean transportation costs:

(i) Incurred on vessels under U.S. flag registry, when Geographic Code 000 is authorized for procurement of goods or services;

(ii) Incurred on vessels under U.S., Cooperating Country, or other Countries included in Geographic Code 941 flag registry, when Geographic Code 941 is authorized for procurement of goods or services; or

(iii) Incurred on vessels under flag registry of any free world country, if the costs are part of the total cost on a through bill of lading paid to a carrier for initial carriage on a vessel which is authorized in accordance with paragraphs (b)(1)(i) and (ii), above.

(2) Any ocean or air charter, covering full or part cargo, for the transportation of goods purchased under this contract must be approved by the Transportation Division, Office of Procurement, prior to shipment.

(3) When use of non-U.S. flag vessels has been authorized, the following requirements still apply:

(i) At least 50% of the gross tonnage of all goods purchased under this contract and transported to the Cooperating Country on ocean vessels shall be transported on privately-owned U.S. flag commercial vessels, to the extent such vessels are available at fair and reasonable rates for such vessels; and

(ii) At least 50% of the gross freight revenue generated by shipments of goods purchased under this contract and transported to the Cooperating Country on dry cargo liners shall be paid to or for the benefit of privately-owned U.S. flag commercial vessels to the extent such vessels are available at fair and reasonable rates for such vessels.

(4) When U.S. flag vessels are not available, or their use would result in a significant delay, the contractor may request a certificate of nonavailability from the Transportation Division, Office of Procurement (OP/TRANS), giving the basis for the request. Such a determination of nonavailability will relieve the contractor of the requirement to use U.S. flag vessels for the tonnage of goods included in the determination.

(5) Vouchers submitted for reimbursement which include ocean shipment costs shall contain a certification essentially as follows: " I hereby certify that a copy of each ocean bill of lading concerned has been submitted to the Maritime Administration, Division of National Cargo, 400 Seventh St., S.W. Washington, D.C. 20590 and to US Agency for International Development, Office of Procurement, Transportation Division, Room 1446, SA-14, Washington, DC 20523-1435 and that such bills of lading state all of the carrier's charges including the basis for calculation such as weight or cubic measurement".

(6) For use of U.S. flag air carriers, see the General Provision entitled "Preference for U.S. Flag Air Carriers".

(c) Marine insurance. The eligibility of marine insurance is determined by the country in which it is "placed." Insurance is "placed" in country if payment of the insurance premium is made to, and the insurance policy is issued by, an insurance company located in that country. Eligible countries for placement are governed by the authorized geographic code, except that if Code 941 is authorized, the Cooperating Country is also eligible. Section 604(d) of the Foreign Assistance Act requires that if a recipient country discriminates by statute, decree, rule, or practice with respect to AID-financed procurement against any marine insurance company authorized to do business in any State of the United States, then any AID-financed commodity shipped to that country shall be insured against marine risk and the insurance shall be placed in the U.S. with a company or companies authorized to do a marine insurance business in any State of the U.S.

(d) Ineligible goods and services. The following goods or services shall not be procured under this contract:

- (1) Military equipment,
- (2) Surveillance equipment,
- (3) Commodities and services for support of police or other law enforcement activities,
- (4) Abortion equipment and services,
- (5) Luxury goods and gambling equipment, or
- (6) Weather modification equipment.

If AID determines that the Contractor has procured any of these specific

ineligible goods and services under this contract and has received payment therefor, the Contractor agrees to refund to AID the entire amount of the purchase.

(e) Restricted goods. The Contractor shall not procure any of the following goods or services without the prior written approval of the Contracting Officer:

- (1) Agricultural commodities,
- (2) Motor vehicles,
- (3) Pharmaceuticals,
- (4) Pesticides,
- (5) Plasticizers,
- (6) Used equipment,
- (7) U.S. government-owned excess property, or
- (8) Fertilizer.

If AID determines that the Contractor has procured any of these specified restricted goods under this contract without the prior written authorization of the Contracting Officer, and has received payment for such purposes, the Contractor agrees to refund to AID the entire amount of the purchase.

(f) Printed or audio-visual teaching materials. If the effective use of printed or audio-visual teaching materials depends upon their being in the local language and if such materials are intended for technical assistance projects or activities financed by AID in whole or in part and if other funds, including U.S.-owned or U.S.-controlled local currencies are not readily available to finance the procurement of such materials, local language versions may be procured from the following sources, in order of preference:

- (1) Code 000, United States,
- (2) Code--, Cooperating Country,
- (3) Code 941, Selected Free World,
- (4) Code 899, Free World.

(g) Ineligible suppliers. Funds provided under this contract shall not be used to procure any commodity or commodity-related service from any supplier who is debarred or suspended pursuant to the procedures in 22 CFR 208--Government wide Debarment and Suspension (Nonprocurement).

752.7005 [Reserved]

752.7006 Notices.

The following clause shall be used in all AID contracts.

NOTICES (APR 1984)

Any notice given by any of the parties hereunder shall be sufficient only if in writing and delivered in person or sent by telegraph, cable, or registered or regular mail as follows:

To AID: Administrator, U.S. Agency for International Development, Washington, D.C. 20523-0061. Attention: Contracting Officer (the name of the cognizant Contracting Officer with a copy to the appropriate Mission Director).

To Contractor: At Contractor's address shown on the cover page of this contract, or to such other address as either of such parties shall designate by notice given as herein required. Notices hereunder shall be effective when delivered in accordance with this clause or on the effective date of the notice, whichever is later.

752.7007 Personnel Compensation.

The following clause shall be used in all AID cost-reimbursement contracts.

PERSONNEL COMPENSATION (July 1996)

(a) Direct compensation of the Contractor's personnel will be in accordance with the Contractor's established policies, procedures, and practices, and the cost principles applicable to this contract.

(b) Compensation (i.e., the employee's base annual salary plus overseas recruitment incentive, if any) which exceeds the maximum payable annual or daily rate for an Executive Service level ES-6, as published in the Federal Register, will be reimbursed only with the approval of the Contracting Officer.

752.7008 Use of Government Facilities or Personnel.
The following clause is for use in all AID contracts.

USE OF GOVERNMENT FACILITIES OR
PERSONNEL (APR 1984)

(a) The Contractor and any employee or consultant of the Contractor is prohibited from using U.S. Government facilities (such as office space or equipment) or U.S. Government clerical or technical personnel in the performance of the services specified in the contract, unless the use of Government facilities or personnel is specifically authorized in the contract, or is authorized in advance, in writing, by the Contracting Officer.

(b) If at any time it is determined that the Contractor, or any of its employees or consultants have used U.S. Government facilities or personnel without authorization either in the contract itself, or in advance, in writing, by the Contracting Officer, then the amount payable under the contract shall be reduced by an amount equal to the value of the U.S. Government facilities or personnel used by the Contractor, as determined by the Contracting Officer.

(c) If the parties fail to agree on an adjustment made pursuant to this clause, it shall be considered a dispute, and shall be dealt with under the terms of the clause of this contract entitled "Disputes".

752.7009 Marking.
The following clause is for use in all AID contracts performed in whole or in part overseas.

MARKING (JAN 1993)

(a) It is AID policy that AID-financed commodities and shipping containers, and project construction sites and other project locations be suitably marked with the AID emblem. Shipping containers are also to be marked with the last five digits of the AID financing document number. As a general rule, marking is not required for raw materials shipped in bulk (such as coal, grain, etc.), or for semifinished products which are not packaged.

(b) Specific guidance on marking requirements should be obtained prior to procurement of commodities to be shipped, and as early as possible for project construction sites and other project locations. This guidance will be provided through the cognizant technical office indicated on the cover page of this contract, or by the Mission Director in the Cooperating Country to which commodities are being shipped, or in which the project site is located.

(c) Authority to waive marking requirements is vested with the Regional Assistant Administrators, and with Mission Directors.

(d) A copy of any specific marking instructions or waivers from marking requirements is to be sent to the Contracting Officer; the original should be retained by the Contractor.

752.7010 Conversion of U.S. Dollars to Local Currency.
For use in all AID contracts involving performance overseas.

CONVERSION OF U.S. DOLLARS TO LOCAL

CURRENCY (APR 1984)

Upon arrival in the Cooperating Country, and from time to time as appropriate, the Contractor's Chief of Party shall consult with the Mission Director who shall provide, in writing, the procedure the Contractor and its employees shall follow in the conversion of United States dollars to local currency. This may include, but is not limited to, the conversion of said currency through the cognizant U.S. Disbursing Officer or Mission Controller, as appropriate.

752.7011 Orientation and Language Training.
For use in all AID cost-reimbursement contracts involving performance overseas.

ORIENTATION AND LANGUAGE TRAINING
(APR 1984)

(a) Regular employees shall receive a maximum of 2 weeks AID sponsored orientation before travel overseas. The dates of orientation shall be selected by the Contractor from the orientation schedule provided by AID

(b) Participation in AID sponsored orientation in no way relieves the Contractor of its responsibility for assuring that all employees, regular and short-term, are properly oriented. As an addition to or substitution for AID's sponsored orientation for regular employees, the following types of orientation may be authorized taking into consideration specific job requirements, the employee's prior overseas experience, or unusual circumstances:

- (1) Modified orientation.
- (2) Language training, particularly when significant for operating capabilities.
- (3) Orientation and language training for regular employee's dependents.
- (4) Contractor-sponsored orientation.
- (5) Orientation in all matters related to the administrative, logistical, and technical aspects of the employee's movement to, and tour of duty in, the Cooperating Country.

(c) Authorization for an additional or alternate orientation program, if any, shall be either set forth in the schedule or provided in writing by the Contracting Officer.

(d) Travel expenses not to exceed one round trip from regular employee's residence to place of orientation and return will be reimbursed, pursuant to the cost principles applicable to this contract. Allowable salary costs during the period of orientation are also reimbursable.

752.7012 Protection of the Individual as a Research Subject.
This clause is for use in any AID contract which involves research using human subjects.

PROTECTION OF THE INDIVIDUAL AS A
RESEARCH SUBJECT (August 1995)

(a) Safeguarding the rights and welfare of human subjects in research conducted under a USAID contract is the responsibility of the contractor. USAID has adopted the Common Federal Policy for the Protection of Human Subjects. USAID's Policy is found in Part 225 of Title 22 of the Code of Federal Regulations (the ``Policy''). Additional interpretation, procedures, and implementation guidance of the Policy are found in USAID General Notice entitled ``Procedures for the Protection of Human Subjects in Research Supported by USAID'', issued April 19, 1995, as from time to time amended (a

copy of which is attached to this contract). USAID's Cognizant Human Subjects Officer (CHSO) and AID/W has oversight, guidance, and interpretation responsibility for the Policy.

(b) Contractors must comply with the Policy when humans are the subject of research, as defined in 22 CFR 225.102(d), performed as part of the contract, and contractors must provide ``assurance'', as required by 22 CFR 225.103, that they follow and abide by the procedures in the Policy. See also Section 5 of the April 19, 1995, USAID General Notice which sets forth activities to which the Policy is applicable. The existence of a bona fide, applicable assurance approved by the Department of Health and Human Services (HHS) such as the ``multiple project assurance'' (MPA) will satisfy this requirement. Alternatively, contractors can provide an acceptable written assurance to USAID as described in 22 CFR 225.103. Such assurances must be determined by the CHSO to be acceptable prior to any applicable research being initiated or conducted under the contract. In some limited instances outside the U.S., alternative systems for the protection of human subjects may be used provided they are deemed ``at least equivalent'' to those outlined in Part 225 (see 22 CFR 225.101(h)). Criteria and procedures for making this determination are described in the General Notice cited in the preceding paragraph.

(c) Since the welfare of the research subject is a matter of concern to USAID as well as to the contractor, USAID staff, consultants and advisory groups may independently review and inspect research, and research processes and procedures involving human subjects, and based on such findings, the CHSO may prohibit research which presents unacceptable hazards or otherwise fails to comply with USAID procedures. Informed consent documents must include the stipulation that the subject's records may be subject to such review.

752.7013 Contractor-Mission Relationships.

For use in all AID contracts involving performance overseas. Note that paragraph (f) of this clause is applicable only in contracts with an educational institution.

CONTRACTOR-MISSION RELATIONSHIPS (OCT 1989)

(a) The Contractor acknowledges that this contract is an important part of the United States Foreign Assistance Program and agrees that its operations and those of its employees in the Cooperating Country will be carried out in such a manner as to be fully commensurate with the responsibility which this entails.

(b) The Mission Director is the chief representative of AID in the Cooperating Country. In this capacity, he/she is responsible for the total AID program in the cooperating country including certain administrative responsibilities set forth in this contract and for advising AID regarding the performance of the work under the contract and its effect on the United States Foreign Assistance Program. Although the Contractor will be responsible for all professional, technical, and administrative details of the work called for by the contract, it shall be under the guidance of the Mission Director in matters relating to foreign policy. The Chief of Party shall keep the Mission Director currently informed of the progress of the work under the contract.

(c) In the event the conduct of any Contractor employee is not in accordance with the preceding paragraphs, the contractor's Chief of Party shall consult with the Mission Director and the employee involved and shall recommend to the Contractor a course of action with regard to such employee.

(d) The parties recognize the right of the U.S. Ambassador to direct the removal from a country of any U.S. citizen or the discharge from this contract of any third country national or cooperating country national when, at the discretion of the Ambassador, the interests of the United States so require. Under these circumstances termination of an employee and replacement by an acceptable substitute shall be at no cost to AID.

(e) If it is determined that the services of such employee shall be terminated, the Contractor shall use its best efforts to cause the return of such employee to the United States or point of origin as appropriate.

(The following paragraph (f) is applicable if the contract is with an educational institution:)

(f) It is understood by the parties that the Contractor's responsibilities shall not be restrictive of academic freedom. Notwithstanding these academic freedoms, the Contractor's employees, while in the Cooperating Country, are expected to show respect for its conventions, customs, and institutions, to abide by applicable laws and regulations, and not to interfere in its internal political affairs.

752.7014 Notice of Changes in Travel Regulations.

The following clause is for use in cost-reimbursement contracts involving work overseas.

NOTICE OF CHANGES IN TRAVEL REGULATIONS (JAN 1990)

(a) Changes in travel, differential, and allowance regulations shall be effective on the beginning of the contractor's next pay period following the effective date of the change as published in the applicable travel regulations (the Standardized Regulations (Government Civilians, Foreign Areas), the Uniform State/AID/USIA Foreign Service Travel Regulations, and the Federal Travel Regulations).

(b) The Standardized Regulations (Government Civilians Foreign Areas), and the Federal Travel Regulations are available from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

(c) Information regarding the Uniform State/AID/USIA Foreign Service Travel Regulations as referenced in the "Travel and Transportation" clause of this contract may be obtained from the Contracting Officer.

752.7015 Use of Pouch Facilities.

For use in all AID Contracts involving performance overseas.

USE OF POUCH FACILITIES (JUNE 1991)

(a) Use of diplomatic pouch is controlled by the Department of State. The Department of State has authorized the use of pouch facilities for AID contractors and their employees as a general policy, as detailed in paragraphs (a)(1) through (a)(7) of this section; however, the final decision regarding use of pouch facilities rests with the Embassy or AID Mission. In consideration of the use of pouch facilities as hereinafter stated, the Contractor and its employees agree to indemnify and hold harmless the Department of State and AID against loss or damage occurring in pouch transmission.

(1) Contractors and their employees are authorized use of the pouch for transmission and receipt of up to a maximum of 2 pounds per shipment of correspondence and documents needed in the administration of foreign assistance programs.

(2) U.S. citizen employees are authorized use of the pouch for personal mail up to a maximum of one pound per shipment (but see paragraph (a)(3) of this section).

(3) Merchandise, parcels, magazines, or newspapers are not considered to be personal mail for purposes of this clause, and are not authorized to be sent or received by pouch.

(4) Official mail as authorized by paragraph (c)(1) of this clause should be addressed as follows: Individual or Organization Name, followed by the symbol "(C)", City Name of Post, Agency for International Development, Washington, D.C. 20523-0001.

(5) Personal mail pursuant to paragraph (a)(2) of this section should be sent to the address specified in paragraph (a)(4) of this section, but without the name of the organization.

(6) Mail sent via the diplomatic pouch may not be in violation of U.S. Postal laws and may not contain material ineligible for pouch transmission.

(7) AID contractor personnel are not authorized use of military postal facilities (APO/FPO). This is an Adjutant General's decision based on existing laws and regulations governing military postal facilities and is being enforced worldwide. Posts having access to APO/FPO facilities and using such for diplomatic pouch dispatch, may, however, accept official mail from Contractors and letter mail from their employees for the pouch, provided of course, adequate postage is affixed.

(b) The Contractor shall be responsible for advising its employees of this authorization and these guidelines and limitations on use of pouch facilities.

(c) Specific additional guidance on use of pouch facilities in accordance with this clause is available from the Post Communication Center at the Embassy or AID Mission.

752.7016 Family Planning and Population Assistance Activities.

The following clause is applicable to all contracts involving any aspect of family planning or population activities.

FAMILY PLANNING AND POPULATION ASSISTANCE ACTIVITIES (AUG 1986)

(a) Voluntary Participation.

(1) The Contractor agrees to take any steps necessary to ensure that funds made available under this contract will not be used to coerce any individual to practice methods of family planning inconsistent with such individual's moral, philosophical, or religious beliefs. Further, the Contractor agrees to conduct its activities in a manner which safeguards the rights, health and welfare of all individuals who take part in the program.

(2) Activities which provide family planning services or information to individuals, financed in whole or in part under this contract, shall provide a broad range of family planning methods and services available in the country in which the activity is conducted or shall provide information to such individuals regarding where such methods and services may be obtained.

(b) Prohibition on Abortion-related Activities. No funds made available under this Contract shall be used to finance, support, or be attributed to the following activities: (i) procurement or distribution of equipment intended to be used for the purposes of inducing abortions as a method of family planning; (ii) special fees or incentives to women to coerce or motivate them to have abortions; (iii) payments to persons to perform abortions or to solicit persons to undergo abortions; (iv) information, education, training, or communication programs that seek to promote abortion as a method of family planning; (v) any biomedical research which relates, in whole or in part, to methods of, or the performance of, abortions or involuntary sterilization as a means of family planning (epidemiologic or descriptive research to assess the incidence, extent or consequences of abortion is not precluded); or (vi) lobbying for abortion.

(c) Voluntary Participation Requirements for Sterilization Programs.

(1) None of the funds made available under this contract shall be used to pay for the performance of involuntary sterilizations or to coerce or provide any financial incentive to any person to practice sterilizations.

(2) The Contractor shall insure that any surgical sterilization procedures supported in whole or in part by funds from the contract are performed only after the individual has voluntarily come to the treatment facility and has given an informed consent to the sterilization procedure.

Informed consent means the voluntary knowing assent from the individual given after being advised of the surgical procedures to be followed, the attendant discomforts and risks, the benefits to be expected, the availability of alternative methods of family planning, the purpose of the operation and its irreversibility, and the fact that the consent can be withdrawn at any time prior to the operation. An individual's consent is considered voluntary if it is based upon the exercise of free choice and is not obtained by any special inducement or any element of force, fraud, deceit, duress or other forms of coercion or misrepresentation.

(3) Further, the Contractor shall document the patient's informed consent by: (i) A written consent document in a language the patient understands and speaks, which explains the basic elements of informed consent, as set out above, and which is signed by the individual and by the attending physician or by the authorized assistant of the attending physician; or (ii) when a patient is unable to read adequately a written certification signed by the attending physician or by the authorized assistant of the attending physician that the basic elements of informed consent above were orally presented to the patient, and that the patient thereafter consented to the performance of the operation. The receipt of the oral explanation shall be acknowledged by the patient's mark on the certification and by the signature or mark of a witness who shall be of the same sex and speak the same language as the patient.

(4) Copies of informed consent forms and certification documents for each voluntary sterilization (VS) procedure must be retained by the performing Contractor or subcontractor for a period of three years after the performance of the sterilization procedure.

(d) The Contractor shall insert the substance of this clause in any subgrants, subcontracts, purchase orders, and other subordinate agreements hereunder whenever appropriate to the goods and services to be provided under such agreements.

752.7017 Local Procurement.

For use in any AID contract involving performance overseas.

Local Procurement (APR 1994)

(a) Local procurement involves the use of appropriated funds to finance the procurement of goods and services supplied by local businesses, dealers or producers, with payment normally being in the currency of the cooperating country.

(b) All locally-financed procurements must be covered by source/origin and nationality waivers as set forth in Chapter 310 of the AID Automated Directives System (ADS), with the following exceptions:

(1) Commodities and services financed under the Development Fund for Africa, unless otherwise specified in the contract.

(2) Locally available commodities of U.S. origin, which are otherwise eligible for financing, if the transaction value is estimated not to exceed the local currency equivalent of \$100,000 (exclusive of transportation costs).

(3) Commodities of geographic code 935 origin if the transaction value does not exceed \$5,000.

(4) Professional services contracts estimated not to exceed \$250,000.

(5) Construction services contracts estimated not to exceed \$5 million.

(6) Commodities, services and related expenses which as a practical matter can only be acquired, performed, or incurred in the cooperating country such as: utilities; communications; housing and office rental; hotel accommodations;

petroleum, oils and lubricants for vehicles and equipment;
vehicle maintenance; and newspapers, periodicals, or books
published in the cooperating country.

752.7018 Health and Accident Coverage for AID Participant Trainees.
For use in any AID contract under which AID participants are trained.

HEALTH AND ACCIDENT COVERAGE FOR
AID PARTICIPANT TRAINEES (OCT 1989)

(a) The Contractor shall enroll all non-U.S. participants (hereinafter referred to as "participants"), whose training in the U.S. is financed by AID under this contract, in AID's Health and Accident Coverage (HAC) program.

(b) The Contractor shall, prior to the initiation of travel by each participant financed by AID under this contract, fill out and mail to AID the Participant Data Form (form AID 1381-4). The Contractor can obtain a supply of these cards and instructions for completing them, from the Human Capacity Development Center in the Bureau for Global Programs Field Support and Research (G/HCD0), AID/W, Washington, D.C. 20523-1601.

(c) The Contractor shall assure that enrollment shall begin immediately upon the participant's departure for the United States for the purpose of participating in a training program financed by AID and that enrollment shall continue in full force and effect until the participant returns to his/her country of origin, or is released from AID's responsibility, whichever is the sooner. The Contractor shall continue enrollment for participants whose departure is delayed due to medical or other compelling reasons, with the written concurrence of the AID Project Manager and subject to the requirements of paragraph(d).

(d) The Contractor shall submit the Participant Data Form to AID, as specified in paragraph (b) of this section, to enable the participant(s), or the provider of medical services, to submit bills for medical costs resulting from illness and accident to the HAC Administrator (the name and address of the HAC Administrator may be obtained from either FM/CMP (see paragraph (d)(1) of this clause), or from the Human Capacity Development Center (see paragraph (b) of this clause). The HAC Administrator, not the Contractor, shall be responsible for paying all reasonable and necessary charges, not otherwise covered by student health service or other insurance programs (see paragraphs (e) and (f)), subject to the availability of funds for such purposes, in accordance with the standards of coverage established by AID under the HAC program, and subject to the payment of the fee specified in paragraph (d)(1), of this clause.

(1) Within thirty (30) days after enrollment, the Contractor shall send to: Agency for International Development, Office of Financial Management, Cash Management and Payment Division, Non-Project Assistance, Washington, D.C. 20523, an enrollment fee computed on the basis of the fixed rate per participant per month (information regarding the current rate is available from the AID Human Capacity Development Center, or the HAC Administrator). The minimum period for calculation of fee is one month -- that is, one participant month, 30 days, not one calendar month. Premiums may not be prorated for fractional periods of less than 30 days. The enrollment fee should cover a minimum period of up to one year or the current training period for which funds are obligated under this contract, whichever is less. As applicable, payments for additional periods of enrollment shall be made 30 days prior to the beginning of each new enrollment period or new period of funding of this contract. All such fee payments shall be made by check, payable to the "Agency for International Development (HAC)." If payments are not made within 30 days, a late payment charge shall apply at a percentage rate based on the current value of funds to the Treasury for each 30 day period; the full charge shall also be applicable to periods of less than 30 days. The percentage rate will be calculated by the Treasury as an average of

the current value of funds to the Treasury for a recent three month period and will be transmitted to AID in TFRM Bulletins. The late payment charge shall be applied to any portion of the fees in arrears and be remitted together with the fees as a separately identified item on the covering memorandum.

(2) Whenever possible, fee payments for groups of several participants entering the HAC Program within the thirty-day reporting period shall be consolidated and covered by a single check. Participants covered by the fee payment shall be listed individually in a covering letter, identifying each participant (the name reported must be identical to that on the HAC enrollment card), showing period of enrollment (or period of coverage for which payment is remitted if this is different from the enrollment period), fee amount paid, contract number, and U.S. Government appropriation number (as shown under the "Accounting and Appropriation Data" block of the cover page of the contract).

(e) The Contractor, to the extent that it is an educational institution with a student health service program, shall also enroll all participants in their institution's student health service program. Medical costs which are covered under the institution's student health service shall not be eligible for payment under AID's HAC program. The Contractor shall provide the HAC Administrator with a copy of information showing what medical costs are covered by the institution's student health service program; medical costs that are not covered by the institution's student health service program shall be submitted to the HAC Administrator.

(f) If the Contractor has a mandatory, non-waivable health and accident insurance program for students, the costs of such insurance will be allowable under this contract. Any claims eligible under such insurance will not be payable under AID's HAC plan or under this contract.

Even though the participant is covered by the Contractor's mandatory, non-waivable health and accident insurance program, the participant MUST be enrolled in AID's more comprehensive HAC program and HAC payments MUST be made to AID as provided above. In addition, a copy of the mandatory insurance policy must be forwarded to the HAC Administrator.

(g) Any payments for medical costs not covered by the Contractor's student health service program, or mandatory, non-waivable health and accident insurance program, or AID's HAC program shall be reimbursable under this contract only with specific written approval of the Contracting Office and subject to the availability of funds.

752.7019 Participant Training.

For use in any AID direct contract involving training of AID participants. Note that paragraphs (d) through (f) of this clause are applicable only when the contract is with an educational institution.

PARTICIPANT TRAINING (July 1996)

(a) Definitions.

(1) Participant training is the training of any foreign national outside of his or her home country, using AID funds.

(2) A Participant is any foreign national being trained under this contract outside of his or her country.

(b) Applicable regulations. Proposals for contracts involving training of AID participants, and participant training conducted under an AID contract shall follow the policies established in Chapter 253 of the AID Automated Directive System (ADS)--`Training for Development Impact' except to the extent that specific exceptions to ADS Chapter 253 have been provided in this contract. (Chapter 253 may be obtained by submitting a request to the Human Capacity Development Center (G/HCD), at the address specified in paragraph (c) of this section.)

(c) Reporting requirement. Once each month the Contractor shall submit

three copies of form AID 1381-4, ``Participant Data Form'' to the Human Capacity Development Center (G/HCD) Bureau for Global Programs Field Support and Research, USAID, Washington, DC 20523-1601.

(The following paragraphs (d) through (f) are applicable if this contract is with an educational institution)

(d) To the extent foreign country national training is authorized in the schedule of this contract, the contractor shall be reimbursed for the following reasonable and allocable costs incurred in providing training and observation to participants in the United States or other approved location:

(1) Customary tuition and fees of the institution in which the training takes place, as published in catalogs and announcements.

(2) Cost of technical preparation and photocopying of papers and dissertations, allowances for required textbooks, the titles of which will be approved by the Contractor.

(3) Travel within the United States or other countries (other than the country of the participant), as approved by the Contractor, including the cost of travel from port of entry into the United States to Contractor's campus and from the Contractor's campus to port of embarkation from the United States.

(4) Subsistence while in the United States or in third countries not to exceed maximum AID rates established in AID Handbook 10, as from time to time amended.

(5) Other direct costs authorized in the operational plan or otherwise determined by the Contracting Officer to be allowable in accordance with the general provisions clause of this contract entitled "Allowable Cost and Payment".

(e) Health and accident coverage for foreign country nationals is governed by the clause of this contract entitled "Health and Accident Coverage for AID Participant Trainees."

(f) For participants assigned to the Contractor for whom specifically-designed courses not otherwise covered in paragraph (d)(1) of this clause are authorized, the Contractor shall be paid the following in lieu of the costs authorized in paragraph (d)(1) of this clause.

(1) For not exceeding 20 instructional days (days on which such courses are scheduled to meet and are actually conducted):

(i) One participant: \$150 for the first day, and \$50 per day for each additional day, up to 19 days.

(ii) Groups up to and including 10 participants: for the first day, \$150 for the first participant, and \$50 for each additional participant. For each additional day, up to 19 days, \$50 for each participant.

(2) For more than 20 instructional days or more than 10 participants: The Contractor shall submit a proposal including supporting cost and pricing data to the Contracting Officer for approval.

752.7020 [Reserved].

752.7021 Changes in Tuition and Fees.

For use in contracts for participant training with an educational institution.

CHANGES IN TUITION AND FEES (APR 1984)

While educational programs for participants will be established utilizing the Contractor's currently applicable tuition and fee schedule, the parties understand that such standard tuition and fees may be subject to change during the course of the program. If such event results in an increase in the cost of the program, AID agrees to pay such increased standard tuition and fees in the next applicable academic term as a condition for the continuation of the program. If such change results in a decrease in the cost of the program, the Contractor agrees to charge to AID only the amount of such

revised standard tuition and fees in the next applicable academic term. The Contractor shall undertake to keep AID currently advised as to changes in its standard tuition and fees. At such time as increases in the amounts of tuition and fees results in there being inadequate funds remaining in this contract to meet the costs of the next academic term, the Contractor will so advise AID. AID may then provide such additional funds as required to complete the program.

752.7022 Conflicts Between Contract and Catalog.

For use in contracts for participant training with an educational institution.

CONFLICTS BETWEEN CONTRACT AND CATALOG
(APR 1984)

In the event of any inconsistency between the provisions of this contract and any catalog, or other document incorporated in this contract by reference or otherwise or any of the Contractor's rules and regulations, the provisions of this contract shall govern.

752.7023 Required Visa Form for AID Participants.

For use in any AID direct contract which involves training of AID participants.

REQUIRED VISA FORM FOR AID PARTICIPANTS
(APR 1984)

The Contractor shall insure that any foreign student brought to the United States for training under this contract uses visa form IAP 66A "Certificate for Exchange Visitor (J-1) Status".

752.7024 Withdrawal of Students.

For use in contracts for participant training with an educational institution.

WITHDRAWAL OF STUDENTS (APR 1984)

(a) The Government may, at its option and at any time, withdraw any student.

(b) The Contractor may request withdrawal by the Government of any student for academic or disciplinary reasons.

(c) If such withdrawal occurs prior to the end of a term, the Government shall pay any tuition and fees due for the current term in which the student may be enrolled, and the Contractor shall credit the Government with any charges eligible for refund under the Contractor's standard procedures for civilian students in effect on the effective date of such withdrawal.

(d) Withdrawal of students by the Government shall not be the basis for any special charge or claim by the Contractor other than as provided by the Contractor's standard procedures.

752.7025 Approvals.

For use in all AID contracts.

APPROVALS (APR 1984)

All approvals required to be given under the contract by the Contracting Officer or the Mission Director shall be in writing and, except when extraordinary circumstances make it impracticable, shall be requested by the Contractor sufficiently in advance of the contemplated action to permit

approval, disapproval or other disposition prior to that action. If, because of existing conditions, it is impossible to obtain prior written approval, the approving official may, at his discretion, ratify the action after the fact.

752.7026 Reports.

(See also, Major Functional Series 300, Interim Update #4)

For use in all AID contracts for technical or professional services.

REPORTS (OCT. 1989)

(a) Reports required. The Contractor shall prepare the following reports:

(1) A semi-annual, substantive report submitted within 45 days of the end of the period being covered, covering the status of the work under the contract, indicating progress, setting forth plans for the ensuing period, and including recommendations covering the current needs in the fields of activity covered under the terms of this contract.

(2) (This paragraph (a)(2) is applicable to cost reimbursement contract only.) A semi-annual, administrative report submitted within 45 days of the end of the period being covered, covering expenditures by contract budget category, personnel employed under the contract, and foreign nationals being trained under the contract (if any).

(3) A final report which summarizes the accomplishments of the assignment, methods of work used, and recommendations regarding unfinished work and/or program continuation. The final report shall be submitted within 60 days after completion of the work hereunder unless required date of submission is extended by the Contracting Officer.

(4) Any other reports specified in the Schedule of this contract.

(b) Distribution of reports. Copies of reports required under paragraph (a) shall be distributed as follows:

(1) 3 copies to the Contracting Officer;

(2) 4 copies to the Project Officer; and

(3) 2 copies to the Bureau for Policy and Program Coordination, Center for Development Information and Evaluation, Office of Development Information, addressed as follows: PPC/CDIE/DI, ACQUISITIONS, Room 209, SA-18, Agency for International Development, Washington, DC 20523-1802.

(c) General.

(1) The title page of all reports shall include a descriptive title, the author's name(s), contract number, project number and title, contractor's name, name of the AID project office, and the publication or issuance date of the report.

(2) When preparing reports, the contractor shall refrain from using elaborate art work, multicolor printing and expensive paper/binding, unless it is specifically authorized in the Contract Schedule. Wherever possible, pages should be printed on both sides using single spaced type.

752.7027 Personnel.

For use in all AID contracts involving performance overseas. Note that paragraphs (f) and (g) of this clause are for use only in cost reimbursement contracts.

PERSONNEL (DEC 1990)

(a) Clearance.

(1) Individuals Engaged or Assigned Within the United States. The contractor will obtain written notification from the Contracting Officer of Cooperating Country clearance of any employee sent outside the United

States to perform duties under this contract.

(2) Individuals Engaged or Assigned When Outside the United States. No individual shall be engaged or assigned when outside the United States to perform work outside the United States under this contract unless authorized in the schedule or otherwise approved by the Contracting Officer or Mission Director. However, when services are performed in the Cooperating Country on a casual or irregular basis or in an emergency, exception to this provision can be made in accordance with instructions or regulations established by the Mission Director.

(b) Physical fitness of employees and dependents. See the clause of this contract entitled Physical Fitness.

(c) Conformity to laws and regulations of Cooperating Country. Contractor agrees to use its best efforts to assure that its employees and their dependents, while in the Cooperating Country, abide by all applicable laws and regulations of the Cooperating Country and political subdivisions thereof.

(d) Importation or sale of personal property or automobiles. To the extent permitted by Cooperating Country laws, the importation and sale of personal property or automobiles by contractor employees and their dependents in the Cooperating Country shall be subject to the same limitations and prohibitions which apply to U.S. nationals employed by the Mission. This provision does not apply to employees or consultants who are citizens or legal residents of the Cooperating Country.

(e) Economic and Financial Activities. Other than work to be performed under this contract for which an employee or consultant is assigned by the contractor, no such employee or consultant of the contractor shall engage, directly or indirectly, either in his/her own name or in the name or through the agency of another person, in any business, profession or occupation in the Cooperating Country or other foreign countries to which he/she is assigned, nor shall he make loans or investments to or in any business, profession or occupation in the Cooperating Country or other foreign countries in which he/she is assigned. This provision does not apply to employees or consultants who are citizens or legal residents of the Cooperating Country.

[The following paragraphs (f) and (g) are applicable only to cost reimbursement contracts.]

(f) Duration of Appointments.

(1) Regular employees will normally be appointed for a minimum of 2 years which period includes orientation (less language training) in the United States and authorized international travel under the contract except:

(i) An appointment may be made for less than 2 years if the contract has less than 2 years but more than 1 year to run provided that if the contract is extended the appointment shall also be extended to the full 2 years. This provision shall be reflected in the employment agreement prior to employment under this contract.

(ii) When a 2-year appointment is not required, appointment may be made for less than 2 years but in no event less than 1 year.

(iii) When the normal tour of duty established for AID personnel at a particular post is less than 2 years, then a normal appointment under this contract may be of the same duration.

(iv) When the contractor is unable to make appointments of regular employees for a full 2 years, the contractor may make appointments of less than 2 but not less than 1 year, provided that such appointment is approved by the Contracting Officer.

(2) Services required for less than 1 year will be considered short-term appointments and the employee will be considered a short-term employee.

(g) Employment of Dependents. If any person who is employed for services in the Cooperating Country under this contract is either (1) a dependent of an employee of the U.S. Government working in the Cooperating

Country, or (2) a dependent of a contractor employee working under a contract with the U.S. Government in the Cooperating Country, such person shall continue to hold the status of a dependent. He or she shall be entitled to salary for the time services are actually performed in the Cooperating Country, and differential and allowances as established by the Standardized Regulations (Government Civilians, Foreign Areas).

752.7028 Differential and Allowances.

The following clause is for use in all AID cost reimbursement contracts performed in whole or in part overseas.

DIFFERENTIALS AND ALLOWANCES (July 1996)

(This clause does not apply to TCN and CCN employees. TCN and CCN employees are not eligible for differentials and allowances, unless specifically authorized by the cognizant Assistant Administrator or Mission Director. A copy of such authorization shall be retained and made available as part of the contractor's records which are required to be preserved and made available by the "Examination of Records by the Comptroller General" and "Audit" clauses of this contract.)

(a) Post differential. Post differential is an additional compensation for service at places in foreign areas where conditions of environment differ substantially from conditions of environment in the continental United States and warrant additional compensation as a recruitment and retention incentive. In areas where post differential is paid to AID direct-hire employees, post differential not to exceed the percentage of salary as is provided such AID employees in accordance with the Standardized Regulations (Government Civilians, Foreign Areas), Chapter 500 (except the limitation contained in Section 552, "Ceiling on Payment") Tables-Chapter 900, as from time to time amended, will be reimbursable hereunder for employees in respect to amounts earned during the time such employees actually spend overseas on work under this contract. (See Standardized Regulation 510) When such post differential is provided to regular employees of the Contractor, it shall be payable beginning on the date of arrival at the post of assignment and continue, including periods away from post on official business, until the close of business on the day of departure from post of assignment en route to the United States. Sick or vacation leave taken at or away from the post of assignment will not interrupt the continuity of the assignment or require a discontinuance of such post differential payments, provided such leave is not taken within the United States or the territories of the United States. Post differential will not be payable while the employee is away from his/her post of assignment for purposes of home leave. Short-term employees shall be entitled to post differential beginning with the forty-third (43rd) day at post.

(b) Living quarters allowance. Living quarters allowance is an allowance granted to reimburse an employee for substantially all of his/her cost for either temporary or residence quarters whenever Government-owned or Government-rented quarters are not provided to him/her at his/her post without charge. Such costs are those incurred for temporary lodging (temporary quarters subsistence allowance) or one unit of residence quarters (living quarters allowance) and include rent, plus any costs not included therein for heat, light, fuel, gas, electricity and water. The temporary quarters subsistence allowance and the living quarters allowance are never both payable to an employee for the same period of time. The Contractor will be reimbursed for payments made to employees for a living quarters allowance for rent and utilities if such facilities are not supplied. Such allowance shall not exceed the amount paid AID employees of equivalent rank in the Cooperating Country, in accordance with either the Standardized Regulations (Government Civilians, Foreign Areas), Chapter 130, as from time to time amended, or other rates approved by the Mission Director. (See Standardized Regulation 130)

Subject to the written approval of the Mission Director, short-term employees may be paid per diem (in lieu of living quarters allowance) at rates prescribed by the Federal Travel Regulations, as from time to time amended, during the time such short-term employees spend at posts of duty in the Cooperating Country under this contract. In authorizing such per diem rates, the Mission Director shall consider the particular circumstances involved with respect to each such short-term employee including the extent to which meals and/or lodging may be made available without charge or at nominal cost by an agency of the United States Government or of the Cooperating Government, and similar factors.

(c) Temporary quarters subsistence allowance. Temporary quarters subsistence allowance is a quarters allowance granted to an employee for the reasonable cost of temporary quarters incurred by the employee and his family for a period not in excess of (i) 90 days after first arrival at a new post in a foreign area or a period ending with the occupation of residence (permanent) quarters, if earlier, and (ii) 30 days immediately preceding final departure from the post subsequent to the necessary vacating of residence quarters, unless an extension is authorized in writing by the Mission Director. The Contractor will be reimbursed for payments made to employees and authorized dependents for temporary quarters subsistence allowance, in lieu of living quarters allowance, not to exceed the amount set forth in the Standardized Regulations (Government Civilians, Foreign Areas), Chapter 120, as from time to time amended.

(d) Post allowance. Post allowance is a cost-of-living allowance granted to an employee officially stationed at a post where the cost of living, exclusive of quarters cost, is substantially higher than in Washington, D.C. The Contractor will be reimbursed for payments made to employees for post allowance not to exceed those paid AID employees in the Cooperating Country, in accordance with the Standardized Regulations (Government Civilians, Foreign Areas), Chapter 220, as from time to time amended. (See Standardized Regulation 220)

(e) Supplemental post allowance. Supplemental post allowance is a form of post allowance granted to an employee at his/her post when it is determined that assistance is necessary to defray extraordinary subsistence costs. The Contractor will be reimbursed for payments made to employees for supplemental post allowance not to exceed the amount set forth in the Standardized Regulations (Government Civilians, Foreign Areas), Chapter 230, as from time to time amended. (See Standardized Regulation 230)

(f) Educational allowance. Educational allowance is an allowance to assist an employee in meeting the extraordinary and necessary expenses, not otherwise compensated for, incurred by reason of his/her service in a foreign area in providing adequate elementary and secondary education for his/her children. The Contractor will be reimbursed for payments made to regular employees for educational allowances for their dependent children in amounts not to exceed those set forth in the Standardized Regulations (Government Civilians, Foreign Areas), Chapter 270, as from time to time amended. (See Standardized Regulation 270)

(g) Educational travel. Educational travel is travel to and from a school in the United States for secondary education (in lieu of an educational allowance) and for college education. The Contractor will be reimbursed for payments made to regular employees for educational travel for their dependent children provided such payment does not exceed that which would be payable in accordance with the Standardized Regulations (Government Civilians, Foreign Areas), Chapter 280, as from time to time amended. (See Standardized Regulation 280) Educational travel shall not be authorized for regular employees whose assignment is less than two years.

(h) Separate maintenance allowance. Separate maintenance allowance is an allowance to assist an employee who is compelled, by reason of dangerous, notably unhealthful, or excessively adverse living conditions at his/her post of assignment in a foreign area, or for the convenience of the Government, to meet the additional expense of maintaining his/her dependents elsewhere than

at such post. The Contractor will be reimbursed for payments made to regular employees for a separate maintenance allowance not to exceed that made to AID employees in accordance with the Standardized Regulations (Government Civilians, Foreign Areas), Chapter 260, as from time to time amended. (See Standardized Regulation 260)

(i) Payments during evacuation. The Standardized Regulations (Government Civilians, Foreign Areas) provide the authority for efficient, orderly, and equitable procedure for the payment of compensation, post differential and allowances in the event of an emergency evacuation of employees or their dependents, or both, from duty stations for military or other reasons or because of imminent danger to their lives. If evacuation has been authorized by the Mission Director the Contractor will be reimbursed for payments made to employees and authorized dependents evacuated from their post of assignment in accordance with the Standardized Regulations (Government Civilians, Foreign Areas), Chapter 600, and the Federal Travel Regulations, as from time to time amended. (See Standardized Regulation 600)

(j) Danger pay allowance.

(1) The contractor will be reimbursed for payments made to its employees for danger pay not to exceed that paid AID employees in the cooperating country, in accordance with the Standardized Regulations (Government Civilians, Foreign Areas), Chapter 650, as from time to time amended. (See Standardized Regulation 650)

(2) Danger pay is an allowance that provides additional compensation above basic compensation to an employee in a foreign area where civil insurrection, civil war, terrorism or wartime conditions threaten physical harm or imminent danger to the health or well-being of the employee. The danger pay allowance is in lieu of that part of the post differential which is attributable to political violence. Consequently, the post differential may be reduced while danger pay is in effect to avoid dual crediting for political violence.

752.7029 Post Privileges.

For use in all AID contracts involving performance overseas.

POST PRIVILEGES (JULY 1993)

(a) Routine health room services may be available, subject to post policy, to U.S. citizen contractors and their authorized dependents (regardless of citizenship) at the post of duty. These services do not include hospitalization, or predeparture or end of tour medical examinations. The services normally include such medications as may be available, immunizations and preventive health measures, diagnostic examinations and advice, and home visits as medically indicated. Emergency medical treatment is provided to U.S. citizen employees and dependents, whether or not they may have been granted access to routine health room services, on the same basis as it would be to any U.S. citizen in an emergency medical situation in the country.

(b) Privileges such as the use of APO, PX's, commissaries, and officer's clubs are established at posts abroad pursuant to agreements between the U.S. and Cooperating Governments. These facilities are intended for and usually limited to members of the official U.S. establishment including the Embassy, AID Mission, U.S. Information Service, and the Military. Normally, the agreements do not permit these facilities to be made available to nonofficial Americans.

752.7030 Inspection Trips by Contractor's Officers and Executives.

For use in cost reimbursement contracts with an educational institution involving performance overseas.

INSPECTION TRIPS BY CONTRACTOR'S

OFFICERS AND EXECUTIVES (APR 1984)

Provided it is approved by the Mission Director, the Contractor may send the Campus Coordinator, a professional member of its staff as an alternate to the Campus Coordinator, or such of its senior officials (e.g., president, vice presidents, deans, or department heads) to the Cooperating Country as may be required to review the progress of the work under this contract. Except for the Campus Coordinator or his/her alternate, no direct salary charges will be paid hereunder with respect to any such officials.

752.7031 Leave and Holidays.

For use in all AID cost-reimbursement contracts for technical or professional services.

LEAVE AND HOLIDAYS (OCT 1989)

(a) Vacation leave.

(1) The Contractor may grant to its employees working under this contract vacations of reasonable duration in accordance with the Contractor's practice for its employees, but in no event shall such vacation leave be earned at a rate exceeding 26 work days per annum. Reimbursement for vacation leave is limited to the amount earned by employees while serving under this contract.

For regular employees during their tour of duty in the Cooperating Country, vacation leave is provided under this contract primarily for purposes of affording necessary rest and recreation. The Contractor's Chief of Party, the employee and the Cooperating Country institution associated with this project shall develop vacation leave schedules early in the employee's tour of duty taking into consideration project requirements, employee preference and other factors.

(2) Leave taken during the concluding weeks of an employee's tour shall be included in the established leave schedule and be limited to that amount of leave which can be earned during a twelve-month period unless approved in accordance with paragraph (a)(3) of this clause.

(3) Vacation leave earned but not taken by the end of the employee's tour pursuant to paragraphs (a)(1) and (2) of this clause will be forfeited unless the requirements of the project precluded the employee from taking such leave, and the Contracting Officer (with the endorsement of the Mission) approves one of the following as an alternative:

(i) Taking, during the concluding weeks of the employee's tour, leave not permitted under (a)(2) of this section, or

(ii) Lump-sum payment for leave not taken provided such leave does not exceed the number of days which can be earned by the employee during a twelve-month period.

(b) Sick Leave. Sick leave is earned by employees in accordance with the Contractor's usual practice but not to exceed 13 work days per annum or 4 hours every 2 weeks. Additional sick leave after use of accrued vacation leave may be advanced in accordance with Contractor's usual practice, if in the judgment of the Contractor's Chief of Party it is determined that such additional leave is in the best interest of the project. In no event shall such additional leave exceed 30 days. The Contractor agrees to reimburse AID for leave used in excess of the amount earned during the employee's assignment under this contract. Sick leave earned and unused at the end of a regular tour of duty may be carried over to an immediately succeeding tour of duty under this contract. The use of home leave authorized under this clause shall not constitute a break in service for the purpose of sick leave carry-over. Contractor employees will not be compensated for unused sick leave at the completion of their duties under this contract.

(c) Home leave.

(1) Home leave is leave earned for service abroad for use only

in the United States, in the Commonwealth of Puerto Rico, or in the possessions of the United States.

(2) A regular employee who is a U.S. citizen or resident and has served at least 2 years overseas, as defined in paragraph (c)(4) of this clause, under this contract and has not taken more than 30 workdays leave (vacation, sick, or leave without pay) in the United States, may be granted home leave of not more than 15 workdays for each such year of service overseas, provided that such regular employee agrees to return overseas upon completion of home leave under an additional 2 year appointment, or for a shorter period of not less than 1 year of overseas service under the contract if the Mission Director has approved in advance. Home leave must be taken in the United States, the Commonwealth of Puerto Rico, or the possessions of the United States; any days spent elsewhere will be charged to vacation leave or leave without pay.

(3) Notwithstanding the requirement in paragraph (c)(2), of this clause, that the Contractor's regular employee must have served 2 years overseas under this contract to be eligible for home leave, Contractor may grant advance home leave to such regular employee subject to all of the following conditions:

(i) Granting of advance home leave would in each case serve to advance the attainment of the objectives of this contract;

(ii) The regular employee shall have served a minimum of 18 months in the Cooperating Country on his/her current tour of duty under this contract; and

(iii) The regular employee shall have agreed to return to the Cooperating Country to serve out the remainder of his/her current tour of duty and an additional 2 year appointment under this contract, or such other additional appointment of not less than 1 year of overseas service as the Mission Director may approve.

(4) The period of service overseas required under paragraph (c)(2) or paragraph (c)(3) of this clause shall include the actual days spent in orientation in the United States (less language training) and the actual days overseas beginning on the date of departure from the United States port of embarkation on international travel and continuing, inclusive of authorized delays en route, to the date of arrival at the United States port of debarkation from international travel. Allowable vacation and sick leave taken while overseas, but not leave without pay, shall be included in the required period of service overseas. An amount equal to the number of days vacation sick leave taken in the United States, the Commonwealth of Puerto Rico, or the possessions of the United States will be added to the required period of service overseas.

(5) Salary during travel to and from the United States for home leave will be limited to the time required for travel by the most expeditious air route. The Contractor will be responsible for reimbursing AID for salary payments made during home leave if in spite of the undertaking of the new appointment the regular employee, except for reasons beyond his/her control as determined by the Contracting Officer, does not return overseas and complete the additional required service. Unused home leave is not reimbursable under this contract.

(6) To the extent deemed necessary by the Contractor, regular employees in the United States on home leave may be authorized to spend not more than 5 days in work status for consultation at home office/campus or at AID/Washington before returning to their post of duty. Consultation at locations other than AID/Washington or home office/campus, as well as any time in excess of 5 days spent for consultation, must be approved by the Mission Director or the Contracting Office.

(7) Except as provided in the schedule or approved by the Mission Director or the Contracting Officer, home leave is not authorized for TCN or CCN employees.

(d) Holidays. Holidays for Contractor employees serving in the United States shall be in accordance with the Contractor's established policy and

practice. Holidays for Contractor employees serving overseas should take into consideration local practices and shall be established in collaboration with the Mission Director.

(e) Military leave. Military leave of not more than 15 calendar days in any calendar year may be granted in accordance with the Contractor's usual practice to each regular employee whose appointment is not limited to 1 year or less and who is a reservist of the United States Armed Forces, provided that such military leave has been approved in advance by the cognizant Mission Director or Assistant Administrator. A copy of any such approval shall be provided to the Contracting Officer.

(f) Leave Records. The Contractor's leave records shall be preserved and made available as part of the contractor's records which are required to be preserved and made available by the Examination of Records by the Comptroller General and Audit clauses of this contract.

752.7032 International Travel Approval and Notification Requirements.
For use in any AID contract requiring international travel.

INTERNATIONAL TRAVEL APPROVAL AND NOTIFICATION REQUIREMENTS (JAN 1990)

Prior written approval by the Contracting Officer is required for all international travel directly and identifiably funded by AID under this contract. The Contractor shall therefore present to the Contracting Officer an itinerary for each planned international trip, showing the name of the traveler, purpose of the trip, origin/destination (and intervening stops), and dates of travel, as far in advance of the proposed travel as possible, but in no event less than three weeks before travel is planned to commence. The Contracting Officer's prior written approval may be in the form of a letter or telegram or similar device or may be specifically incorporated into the schedule of the contract. At least one week prior to commencement of approved international travel, the Contractor shall notify the cognizant Mission, with a copy to the Contracting Officer, of planned travel, identifying the travelers and the dates and times of arrival.

752.7033 Physical Fitness.
For use in all AID contracts involving performance overseas.

PHYSICAL FITNESS (JULY 1993)

(The requirements of this provision do not apply to employees hired in the Cooperating Country or to authorized dependents who were already in the Cooperating Country when their sponsoring employee was hired.)

(a) Assignments of less than 60 days in the Cooperating Country. The contractor shall require employees being assigned to the Cooperating Country for less than 60 days to be examined by a licensed doctor of medicine. The contractor shall require the doctor to certify that, in the doctor's opinion, the employee is physically qualified to engage in the type of activity for which he/she is employed and the employee is physically able to reside in the country to which he/she is assigned. Under a cost reimbursement contract, if the contractor has no such medical certificate on file prior to the departure for the Cooperating Country of any employee and such employee is unable to perform the type of activity for which he is employed or cannot complete his/her tour of duty because of any physical disability (other than physical disability arising from an accident while employed under this contract), the contractor shall be responsible for returning the disabled employee to his/her point of hire and providing a replacement at no additional cost to the Government. In addition, in the case of a cost reimbursement contract, the contractor shall not be entitled to reimbursement for any additional costs attributable to delays or other circumstances caused by the employee's

inability to complete his/her tour of duty.

(b) Assignments of 60 days or more in the Cooperating Country.

(1) The Contracting Officer shall provide the contractor with a reproducible copy of the "AID Contractor Employee Physical Examination Form".** This form is for collection of information; it has been reviewed and approved by OMB, and assigned Control No. 0412-0356. Information required by the Paperwork Reduction Act for reporting the burden estimate, the points of contact regarding burden estimate, and the OMB approval expiration date, are printed on the form. The contractor shall reproduce the form as required, and provide a copy to each employee and authorized dependent proposed for assignments of 60 days or more in the Cooperating Country. The contractor shall have the employee and all authorized dependents obtain a physical examination from a licensed physician, who will complete the form for each individual. The employee will deliver the physical examination form(s) to the embassy health unit in the Cooperating Country.

=====
** The AID Contractor Employee Physical Examination Form appears at the end of the AIDAR as an attachment. It is not part of the AIDAR. It appears as an attachment only for the reader's convenience.
=====

(2) (The following information is provided for two purposes: to assist fixed price offerors to develop their price proposal, and to provide cost reimbursement contractors with guidance in determining reasonable and allowable costs.) As a contribution to the cost of medical examinations, AID shall reimburse the contractor for the physical examination authorized in paragraph (a) of this section in an amount not to exceed \$100 for the physical examination, plus reimbursement of charges for immunizations to the extent not covered by the contractor's health insurance policy. For physical examinations authorized in paragraph (b)(1) above, the AID contribution to the cost of the examination shall be as follows:

(i) For the employee and authorized dependents 12 years of age and over, one half of the cost of each examination up to a maximum AID share of \$300 per individual, plus reimbursement of charges for immunizations to the extent not covered by the contractor's health insurance policy.

(ii) For authorized dependents under 12 years of age, one half of the cost of each examination up to a maximum AID share of \$120 per individual, plus reimbursement of charges for immunizations to the extent not covered by the contractor's health insurance policy.

(iii) The contractor must obtain the prior written approval of the Contracting Officer to receive any AID contributions higher than these limits.

752.7034 Acknowledgment and Disclaimer.

For use in any AID contract which funds or partially funds publications, videos, or other information/media products.

ACKNOWLEDGMENT AND DISCLAIMER (DEC 1991)

(a) AID shall be prominently acknowledged in all publications, videos or other information/media products funded or partially funded through this contract, and the product shall state that the views expressed by the author(s) do not necessarily reflect those of AID. Acknowledgments should identify the sponsoring AID Office and Bureau or Mission as well as the U.S. Agency for International Development substantially as follows:

"This [publication, video or other information/media product (specify)] was made possible through support provided by the Office of _____, Bureau for _____, U.S. Agency for International Development, under the terms of Contract No. _____. The opinions expressed herein are those of the author(s) and do not necessarily reflect the views of the U.S.

Agency for International Development."

(b) Unless the contractor is instructed otherwise by the cognizant technical office publications, videos or other information/media products funded under this contract and intended for general readership or other general use will be marked with the AID logo and/or U.S. AGENCY FOR INTERNATIONAL DEVELOPMENT appearing either at the top or at the bottom of the front cover or, if more suitable, on the first inside title page for printed products, and in equivalent/appropriate location in videos or other information/media products. Logos and markings of co-sponsors or authorizing institutions should be similarly located and of similar size and appearance.

752.7035 Public Notices.

The following clause is for use when the cognizant technical office determines that the contract is of public interest, and that both the public and the Government would benefit from public notices concerning the contract, and requests that the Contracting Officer include the clause in the contract.

PUBLIC NOTICES (DEC 1991)

It is AID's policy to inform the public as fully as possible of its programs and activities. The contractor is encouraged to give public notice of the receipt of this contract and, from time to time, to announce progress and accomplishments. Press releases or other public notices should include a statement substantially as follows: "The U.S. Agency for International Development administers the U.S. foreign assistance program providing economic and humanitarian assistance in more than 80 countries worldwide." The contractor may call on AID's Office of Legislative and Public Affairs (LPA) for advice regarding public Notices. The contractor is requested to provide copies of notices or announcements to the cognizant technical officer and to AID's Office of Legislative and Public Affairs (LPA) as far in advance of release as possible.

(See also Interim Update Dataset, Major Functional Series 300, Interim Update #2

[AVAILABLE IN GUIDED SEARCH ONLY!]

PART 753 -- FORMS

SUBPART 753.1 -- GENERAL

753.107 Obtaining forms

SUBPART 753.2 -- PRESCRIPTION OF FORMS

753.270 Prescription of AID Forms

SUBPART 753.3 -- ILLUSTRATIONS OF FORMS

753.300 Scope of subpart

Authority: Sec. 621, Pub. L. 87-195, 75 Stat. 445, (22 U.S.C. 2381) as amended; E.O. 12163, Sept. 29, 1979, 44 FR 56673; 3 CFR 1979 Comp., p. 435.

SUBPART 753.1 -- GENERAL

753.107 Obtaining forms.

Copies of the AID Forms referenced in the AIDAR may be obtained from the

Agency for International Development, Washington, D.C. 20523-0001,
Attention: M/AS/PP/PP, Distribution, Room B-929 NS, or from the
cognizant Contracting Officer.

SUBPART 753.2 -- PRESCRIPTION OF FORMS

753.270 Prescription of AID forms.

The requirements for use of AID forms are contained in Parts 701 through
752 where the subject matter applicable to the form is addressed.

SUBPART 753.3 -- ILLUSTRATIONS OF FORMS

753.300 Scope of subpart.

AID forms are not illustrated in the AIDAR. Copies of any AID form
prescribed in the AIDAR may be obtained as provided in 753.107.

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Authority: Sec. 621, Pub. L. 87-195, 75 Stat. 445,
(22 U.S.C. 2381) as amended; E.O. 12163, Sept. 29, 1979, 44 FR 56673; 3 CFR
1979 Comp., p. 435.

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AID Acquisition Regulations (AIDAR)
Appendix A: Respective Roles of Contracting and Other Personnel in the AID
Procurement Process

1. Basic Policy
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APPENDIX A--RESPECTIVE ROLES OF CONTRACTING AND OTHER PERSONNEL IN THE AID PROCUREMENT PROCESS

1. Basic Policy

Only a contracting officer, designated to enter into contracts and make the determinations and findings related thereto (or an authorized representative of the contracting officer acting within the limits of his/her authority), may bind the United States Government to a contract, or direct or authorize a contractor to proceed with work.

AIDAR_A.1

AID Acquisition Regulations (AIDAR)
Appendix A: Respective Roles of Contracting and Other Personnel in the AID
Procurement Process

2. Planning, Competition, Negotiation, and Award

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2. Planning, Competition, Negotiation, and Award

(a) Pre-award technical discussions with potential contractors should be conducted in such a manner as to preclude the assumption by any potential contractor that a commitment has been made. AID employees are responsible for insuring that no unfair competitive advantage is afforded one contractor over any other contractor in competing for Agency contracts. In this connection, discussions with prospective contractors prior to the final selection of the contractor and commencement of negotiations by the contracting officer must be conducted with the greatest discretion. Under no circumstances should the specific amount of funds which the Agency has available to support a contract be made known to a prospective contractor. No AID employee is authorized to dilute the Agency's negotiation position prior to or during an "arm's length" negotiation conducted between AID and the contractors with whom it does business. The requirement for preservation of the Agency's negotiation position must be scrupulously observed whether the procurement is to be negotiated with a single, non-competitive source or whether it is to be negotiated on the basis of multiple competitive proposals. It is advisable to involve the contracting officer in the project planning cycle as early as possible, and to insure that he/she or his/her representative is either present at any meeting with prospective contractors, or is consulted prior to such a meeting.

(b) Contracting personnel act upon requirements which are formulated by the planning, technical, and research offices of the Agency. Contracting officers obtain the information they need on technical requirements by questions and discussions with the planning, technical, and research offices of the Agency. If a contract is to be tenable, the end result which is desired must be described with completeness and exactitude. The scope of the work must be explicitly stated; otherwise the contracting officer cannot assure terms in a contract by which the desired action can be enforced. If the requiring office cannot provide a point of departure in these terms and deliver to the contracting officer a clear-cut description of the purpose and outline the limits of the scope, results may be disappointing and the possibility of deferring the project until these elements can be given more concrete dimensions should be considered. Finally, the requiring office should insure that the scope of work and funding information are delivered to the contracting officer with sufficient lead time to allow for proper preparation and planning of the procurement.

(c) One of the paramount duties of the contracting officer is to ensure full and open competition for any planned procurement. The procedures for procurement by sealed bid, or for procurement by negotiation, or for procurement by other than full and open competition differ; the contracting officer must determine the proper method of procurement and contract type, keeping the requirements for full and open competition in mind. The technical office has a continuing responsibility to assist the contracting officer in this effort to ensure full and open competition. This responsibility should be exercised through proper planning to allow sufficient lead time, and preparation of scopes of work designed to encourage full and open competition by avoiding specifications, descriptions, or work statements which could unnecessarily restrict competition.

AID Acquisition Regulations (AIDAR)
Appendix A: Respective Roles of Contracting and Other Personnel in the AID
Procurement Process

3. Contract Administration

AIDAR, Appendix A, 3. Contract Administration

3. Contract Administration

Meetings to discuss contract matters with contractors should be preceded by sufficient advance notification to all parties, including the contracting officer, to permit advance arrangements for the attendance at such meetings. Technical personnel shall not hold discussions of contract problems with contractors or technical problems with contractual implications without arranging for attendance by contracting personnel. Once a meeting with a contractor has been agreed upon and the issues have been made known to all involved parties, an internal AID meeting should take place between technical and contracting personnel, with the Country Desk representative and such other personnel in attendance as may be necessary, to establish an AID position or line of inquiry to be followed in the meeting with the contractor. If differences of opinion arise among AID personnel in the meeting with the contractor, such differences should never be discussed in the meeting with the contractor. AID personnel shall adjourn to resolve privately any such differences of opinion, and resume discussions with the contractor only when the AID position is consolidated. The AID individual designated to chair meeting with a contractor should be selected prior to the meeting with the contractor. Depending upon the issues to be discussed, whether primarily technical or primarily contractual, the chairman should be designated from either the technical office or the contracting office.

AIDAR_A.3

AID Acquisition Regulations (AIDAR)

Appendix B: Reserved

AIDAR, Appendix B: RESERVED

APPENDIX B -- RESERVED

AIDAR_B

AID Acquisition Regulations (AIDAR)

Appendix C: Logistic Support Overseas to AID-Direct Contractors

1. General

AIDAR, Appendix C, 1. General

APPENDIX C -- LOGISTIC SUPPORT OVERSEAS TO AID-DIRECT CONTRACTORS

1. General

(a) Purpose. In furtherance of AID's objectives to: (1) increase the utilization of contractors in accordance with section 621 of the Foreign Assistance Act of 1961, as amended, (FAA), (2) reduce the administration burden on the AID establishment in Cooperating Countries, and (3) ensure, in

accordance with section 636(h) of the FAA, that to the maximum extent possible local costs are met from Cooperating Country funds or United States (U.S.) Government-owned local currency rather than from U.S. dollars, the following policies govern the financing and provision in kind of logistic support overseas to AID-direct contractors.

(b) Scope. "Logistic support overseas" means the financing of or furnishing to a contractor, its employees, and their dependents (in accordance with the provisions of the contract) items such as transportation of personnel, personal goods and commodities; quarters, furnishings, equipment, utilities, and supplies for residence and office; and maintenance and other supporting services, including medical facilities.

AIDAR_C.1

AID Acquisition Regulations (AIDAR)

Appendix C: Logistic Support Overseas to AID-Direct Contractors

2. Policy

AIDAR, Appendix C, 2. Policy

2. Policy

(a) Financing of logistic support. (1) Local Currency Financing. Consistent with the requirements of AID Handbook 19, Financial Management, local currencies are to be used wherever feasible in lieu of dollars to defray the costs of contractor logistic support, whether such support is arranged for by the contractor, the Cooperating Country, or AID. Such local currencies will be contributed from the following sources in descending order of preference:

(I) The Cooperating Country's own budgetary or private resources;

(ii) Cooperating Country-owned local currency generated through AID or Pub. L. 480 programs; and

(iii) U.S. Government-owned country-use local currency generated through AID or Pub. L. 480 programs.

(2) Dollar financing. AID dollars are used to finance logistic support overseas only when no reasonable alternative exists by which such support can be financed with local currency or provided in kind.

(b) Arrangements for logistics support. Each mission should assess the local logistical support situation and determine which method is best suited for its program or individual projects. While the following three options are listed in descending order of preference, the Mission is encouraged to use the option which is in the best interest of the project:

(1) Arrangements by the contractor itself where feasible and reasonably economical. (It is assumed that this test will be met in the case of virtually all construction contracts and in most of the larger engineering and technical assistance contracts.)

(2) Arrangements by the Cooperating Country where these would be timely, adequate, and feasible in terms of the country's economic and administrative resources.

(3) Arrangements by the Mission alone or jointly with either or both of the other parties, in those cases where the Mission Director determines that adequate and timely logistic support at reasonable cost cannot be assured through the other options. In such cases, and when direct-hire resources are inadequate, the Mission is encouraged wherever feasible, to contract for assistance in providing logistic support. Guidance on logistic support contracts should be obtained from FA/OP and GC.

(c) Medical facilities. Medical facilities may be made available in accordance with post policy, subject to compliance with the clause of the

contract entitled "Physical Fitness".

(1) Eligible personnel.

(I) Eligible contractor personnel are those U.S. citizens serving abroad, and their authorized dependents, who are engaged under a contract between a contractor and AID or who are engaged under a subcontract thereto.

(ii) Employees of other U.S. Government agencies serving under Participating Agency Service Agreement (PASA's) with AID are also eligible pursuant to the terms of General Agreements between AID and their parent agencies.

(iii) U.S. citizens serving under Cooperating Country contracts financed from AID loan or grant funds are not "AID contractor employees" and thus not eligible, except with approval of the Ambassador. Third country national employees of AID contractors are not U.S. citizens and thus are not eligible, except with approval of the Ambassador. Americans serving under operational expert (OPEX) type contracts to which AID is not a signatory are also not "AID contractor employees." Most OPEX employees are provided a lump-sum amount to finance their participation in a group health program in lieu of receiving any U.S. Government health services.

(iv) AID or other direct-hire U.S. Government employees working under formal detail to multilateral or other non-U.S. agencies obtain health services on the same basis as their non-U.S. co-workers unless the provisions governing detail of the U.S. employees specifically provide for their access to available U.S. Government facilities.

(v) It is recognized that emergency situations will arise involving OPEX or other Americans who are not "AID contractor personnel" as defined above. Such cases are to be handled by the Medical Officer or other post officials pursuant to their procedures for handling an emergency health problem of any non-official American requesting assistance.

(2) Services to be provided. Embassy physician, nurse, and health room services are provided, in countries where and when these are available, including:

(I) Immunizations and preventive health measures;

(ii) Diagnostic examinations and advice;

(iii) Emergency treatment;

(iv) Home visits as medically indicated.

(d) Other post privileges. Privileges such as the use of APO, PX's, commissaries, and officer's clubs are established at posts abroad pursuant to agreements between the U.S. and Cooperating Governments. Normally, these facilities are not available to contractor employees. However, in those cases where the facilities are open to contractor personnel, they may be used.

(e) Uniformity. Every effort should be made by each Mission to foster the development of country-wide standards for comparable classes of contractors. In all instances, logistic support is to be provided at the minimum level necessary to assure efficient, economical, and effective contractor performance.

(f) Exceptions. Exceptions from these policies, except as permitted by paragraph 2(b)(3) above, are made in writing by the responsible Assistant Administrator or his/her designee for such purposes.

AIDAR_C.2

AID Acquisition Regulations (AIDAR)

Appendix C: Logistic Support Overseas to AID-Direct Contractors

3. Contract Implementation

AIDAR, Appendix C, 3. Contract Implementation

3. Contract Implementation

Each PIO/T shall indicate on page 3 each type of logistic support which is to be made available, either in cash or in kind, by the Cooperating Country, the Mission, and the contractor itself. The contracting officer shall ensure that the contract reflects the information contained in the PIO/T.

AIDAR_C.3

AID Acquisition Regulations (AIDAR)
Appendix D: Direct AID Contracts with a U.S. Citizen or a U.S. Resident Alien for Personal Services Abroad

1. General

AIDAR, Appendix D, 1. General

APPENDIX D -- DIRECT AID CONTRACTS WITH A U.S. CITIZEN OR A U.S. RESIDENT ALIEN FOR PERSONAL SERVICES ABROAD

1. General

(a) Purpose. This appendix sets forth the authority, policy, and procedures under which AID contracts with a U.S. citizen or U.S. resident alien for personal services abroad.

(b) Definitions.

(1) "Personal services contract" (PSC) means a contract that, by its express terms or as administered, makes the contractor personnel appear, in effect, Government employees (see FAR 37.104).

(2) "Employer-employee relationship" means an employment relationship under a service contract with an individual which occurs when, as a result of (i) the contract's terms or (ii) the manner of its administration during performance, the contractor is subject to the relatively continuous supervision and control of a Government officer or employee.

(3) "Non-personal services contract" means a contract under which the personnel rendering the services are not subject either by the contract's terms or by the manner of its administration, to the supervision and control usually prevailing in relationships between the Government and its employees.

(4) "Independent contractor relationship" means a contract relationship in which the contractor is not subject to the supervision and control prevailing in relationships between the Government and its employees. Under this relationship, the Government does not normally supervise the performance of the work, control the days of the week or hours of the day in which it is to be performed, or the location of performance.

(5) "Resident Hire" means a U.S. citizen who, at the time of hire as a PSC, resides in the cooperating country (i) as a spouse or dependent of a U.S. citizen employed by a U.S. government agency or under any U.S. government-financed contract or agreement, or (ii) for reasons other than for employment with a U.S. government agency or under any U.S. government-financed contract or agreement. A U.S. citizen for purposes of this definition also includes persons who at the time of contracting are lawfully admitted permanent residents of the United States.

(6) "U.S. resident alien" means a non-U.S. citizen lawfully admitted for permanent residence in the United States.

(7) "Abroad" means outside the United States and its territories and possessions.

(8) "AID direct-hire employees" means civilian employees appointed under AID Handbook 25 procedures.

AIDAR_D.1

AID Acquisition Regulations (AIDAR)
Appendix D: Direct AID Contracts with a U.S. Citizen or a U.S. Resident Alien for
Personal Services Abroad

2. Legal Basis

AIDAR, Appendix D, 2. Legal Basis

2. Legal Basis

(a) Section 635(b) of the Foreign Assistance Act of 1961, as amended (hereinafter referred to as the "FAA") provides the Agency's contracting authority.

(b) Section 636(a)(3) of the FAA (22 U.S.C. 2396 (a)(3)) authorizes the Agency to enter into personal services contracts with individuals for personal services abroad and provides further that such individuals "...shall not be regarded as employees of the U.S. Government for the purpose of any law administered by the Civil Service Commission." 1/

1/ The Civil Service Commission is now the Federal Office of Personnel Management.

AIDAR_D.2

AID Acquisition Regulations (AIDAR)
Appendix D: Direct AID Contracts with a U.S. Citizen or a U.S. Resident Alien for
Personal Services Abroad

3. Applicability

AIDAR, Appendix D, 3. Applicability

3. Applicability

(a) This appendix applies to all personal services contracts with U.S. citizens or U.S. resident aliens to provide assistance abroad under Section 636(a)(3) of the FAA.

(b) This appendix does not apply to:

(1) Nonpersonal services contracts with U.S. citizens or U.S. resident aliens; such contracts are covered by the basic text of the FAR and the AIDAR.

(2) Personal services contracts with individual Cooperating Country Nationals (CCNs) or Third Country Nationals (TCNs); such contracts are covered by Appendix J of this chapter.

(3) Other personal services arrangements covered by AID Handbook 25 -- Employment and Promotion.

(4) Interagency agreements (e.g., PASAs and RSSAs) covered by AID Handbook 12 -- Use of Federal Agencies.

AIDAR_D.3

AID Acquisition Regulations (AIDAR)

Appendix D: Direct AID Contracts with a U.S. Citizen or a U.S. Resident Alien for Personal Services Abroad

4. Policy

AIDAR, Appendix D, 4. Policy

4. Policy

(a) General. AID may finance, with either program or operating expense (OE) funds, the cost of personal service as part of the Agency's program of foreign assistance by entering into a direct contract with an individual U.S. citizen or U.S. resident alien for personal services abroad.

(1) Program funds. Under the authority of Section 635(h) of the FAA, program funds may be obligated for periods up to five years where necessary and appropriate to the accomplishment of the tasks involved.

(2) Operating Expense Funds. Pursuant to AID budget policy, OE funded salaries and other recurrent cost items may be forward funded for a period of up to three (3) months beyond the fiscal year in which these funds were obligated. Non-recurring cost items may be forward funded for periods not to exceed twenty-four (24) months where necessary and appropriate to accomplishment of the work.

(b) Limitations on Personal Services Contracts.

(1) Personal services contracts may only be used when adequate supervision is available.

(2) Personal services contracts may be used for commercial activities. Commercial activities provide a product or service which could be obtained from a commercial source. See Attachment A of OMB Circular A-76 for a representative list of such activities.

(3) Personal services contracts may be used for Governmental functions (defined by OMB Circular A-76 and OFPP Policy Letter 92-1 as functions so intimately related to the public interest as to mandate performance by Government employees) except:

(i) Entering into any agreement (e.g., loan, grant, contract) on behalf of the United States.

(ii) Making decisions involving governmental functions such as planning, budget, programming and personnel selection. Services will be limited to making recommendations with final decision-making authority reserved for authorized AID direct-hire employees.

(iii) Supervision of AID direct-hire U.S. citizen employees.

(c) Withholdings and Fringe Benefits.

(1) Personal services contractors (PSCs) are Government employees for purposes of Title 26 of United States Code and are therefore subject to social security (FICA) and Federal income tax (FIT) withholdings. As employees, they are ineligible for the "foreign earned income" exclusion under the IRS regulations (see 26 CFR 1.911-3(c)(3)).

(2) Personal services contractors are treated on par with other Government employees, except for programs based on any law administered by the Federal Office of Personnel Management (e.g., incentive awards, life insurance, health insurance, and retirement programs covered by 5 CFR Parts 530, 531, 831, 870, 871, and 890). While PSCs are ineligible to participate in any of these programs, the following fringe benefits are provided as a matter of policy:

(i) The employer's FICA contribution for retirement purposes.

(ii) A contribution against the actual costs of the PSC's annual health and life insurance costs. Proof of health and life insurance coverage and its actual cost to the PSC shall be submitted to the Contracting Officer before any contribution is made. (See also paragraph 4(c)(3) of this Appendix.)

(A) The contribution for health insurance shall not exceed 50% of the actual cost to the PSC for his/her annual health insurance, or the

maximum U.S. Government contribution for a direct-hire employee, as announced annually by the Office of Personnel Management, whichever is less. If the PSC is covered under a spouse's health insurance plan, where the spouse's employer pays some or all of the health insurance costs, the cost to the PSC for annual health insurance shall be considered to be zero.

(B) The contribution for life insurance shall be up to 50% of the actual annual costs to the PSC for life insurance, not to exceed \$500.00 per year.

(iii) PSCs shall receive the same percentage pay comparability adjustment as U.S. Government employees subject to the availability of Mission funds.

(iv) PSCs shall receive a 3% annual salary increase subject to satisfactory performance. Such increase may not exceed 3% without a deviation. This 3% limitation also applies to extensions of the same service or negotiations for a new contract for the same or similar services unless a deviation has been approved.

(v) PSCs shall receive the following allowances and differentials provided in the State Department's Standardized Regulations (Government Civilians Foreign Areas) on the same basis as U.S. Government employees (except for resident hires, see paragraph 4(d) and Section 11, General Provisions, Clause 22, "Resident Hire Personal Services Contractors"):

- (A) temporary lodging allowance (Section 120), 2/
- (B) living quarters allowance (Section 130), 2/
- (C) post allowance (Section 220), 2/
- (D) supplemental post allowance (Section 230), 2/
- (E) separate maintenance allowance (Section 260), 3/
- (F) education allowance (Section 270), 3/
- (G) educational travel (Section 280), 3/
- (H) post differential (Chapter 500),
- (I) payments during evacuation/authorized departure (Section 600), and
- (J) danger pay (Section 650).

2/ Mission Directors may authorize per diem in lieu of these allowances.

3/ These allowances are not authorized for short tours (i.e., less than a year).

Any allowance or differential that is not expressly stated in this paragraph is not authorized for any PSC unless a deviation is approved.

(vi) Health room services may be provided in accordance with the clause of this contract entitled "Physical Fitness and Health Room Privileges."

(vii) PSCs are eligible to receive benefits for injury, disability, or death under the Federal Employees' Compensation Act since the law is administered by the Department of Labor, not the Office of Personnel Management.

(viii) PSCs are eligible to earn four hours of annual leave and four hours of sick leave for each two week period. However, PSCs with previous PSC service (not previous U.S. Government civilian or military service) earn either six hours of annual leave for each two week period if their previous PSC service exceeds 3 years, or eight hours of annual leave for each two week period if their previous PSC service exceeds 15 years.

(3) A PSC who is a spouse of a current or retired Civil Service, Foreign Service, or Military Service member and who is covered by their spouse's Government health or life insurance policy is ineligible for the contribution under paragraph 4(c)(2)(ii) of this appendix.

(4) Retired U.S. Government employees shall not be paid additional contributions for health or life insurance under their contract (since the Government will normally have already paid its contribution for the retiree) unless the employee can prove to the satisfaction of the Contracting Officer that his/her health and life insurance does not provide or

specifically excludes coverage overseas. If coverage overseas is excluded, then eligibility as cited above applies.

(5) Retired U.S. Government employees may be awarded Personal Services Contracts without any reduction in or offset against their Government annuity.

(d) Resident Hire Personal Services Contractors.

Resident hire PSCs are not eligible for any fringe benefits (except contributions for FICA, health insurance, and life insurance), including differentials and allowances, unless such individuals can demonstrate to the satisfaction of the Contracting Officer that they have received similar benefits and allowances from their immediately previous employer in the cooperating country, or the Mission Director may determine that payment of such benefits would be consistent with the Mission's policy and practice and would be in the best interests of the U.S. Government.

(e) Salary Setting.

(1) Salaries for Personal Services Contractors shall be established based on the market value of the position being recruited for. This requires the Contracting Officer in coordination with the Project Officer to determine the correct market value (a salary range) of the position to be filled. The market value of the position then becomes the basis, along with the applicant's certified salary history on the SF 171, "Personal Qualifications Statement," for salary negotiations to be conducted by the Contracting Officer. The SF 171 must be retained in the permanent contract file. Salaries should be consistent with the FS/GS grade level equivalent that the position would normally warrant.

(2) If approved by the Mission Director or the cognizant Assistant Administrator, based on written justification, salary may be negotiated based on the applicant's current earnings adjusted in accordance with the factors set out in paragraphs (e)(2)(i) through (iii) below. Current earnings must be certified by the contractor on the SF 171, (see paragraph 6(b)(3) of this Appendix). This is guidance for establishing initial salaries not subsequent increases for the same contractor performing the same function.

(i) As a rule, up to a 3 percent increase above current earnings may be given. However, a 3 percent increase is awarded only to a PSC whose earnings are based on a period of twelve months or more; 2 percent for established earnings of less than twelve months but not less than four months; or 1 percent for established earnings during the past four months.

(ii) Additional percentages may be given for the following factors. If a PSC has worked in a developing country for more than two years, an additional 1 percent may be awarded. Education related to the area of specialization and above the minimum qualification required may warrant an additional 1 percent, and those specialties for which there is keen competition in the employment market or a serious shortage category nationwide may be awarded an additional 2 percent. In addition, related technical experience over 5 years may increase the percentage by 1 and over ten years by 3.

(iii) All requests for an initial rate of pay above 10 percent over current earnings must be approved in writing by the appropriate Regional Assistant Administrator or Mission Director. Current earnings are actual earnings for work reasonably related to the position for which the applicant is being considered.

(3) When an applicant has no current earnings history (e.g., a person returning to the workforce after an absence of a number of years) or when an applicant's current earnings history doesn't accurately reflect the applicant's job market worth (e.g., a Peace Corps volunteer), every effort should be made to establish a market value for the position as a basis for negotiation, notwithstanding the lack of a current earnings history, provided that the applicant has the full qualifications for the job and could command a similar salary in the open job market.

(4) Salaries in excess of the FS-1 level must also be approved

by the appropriate Regional Assistant Administrator or Mission Director, as provided for in Appendix G of this chapter.

(f) Incentive Awards.

U.S. PSCs are not eligible to participate in any special awards programs.

(g) Annual Salary Increase.

PSC's contracts written for more than one year should provide for a 3% annual increase based on satisfactory performance.

(h) Pay Comparability Adjustment.

PSCs shall receive the same percentage pay comparability adjustment as that received by U.S. Government employees subject to the availability of Mission funds.

AIDAR_D.4

AID Acquisition Regulations (AIDAR)

Appendix D: Direct AID Contracts with a U.S. Citizen or a U.S. Resident Alien for Personal Services Abroad

5. Soliciting for Personal Services Contracts

AIDAR, Appendix D, 5. Soliciting for Personal Services Contracts

5. Soliciting for Personal Services Contracts.

(a) Project Officer's Responsibilities. The Project Officer will prepare a written detailed statement of duties and a statement of minimum qualifications to cover the position being recruited for. The statement shall be included in the procurement request (e.g., AID Form 1350-1, Project Implementation Order/Technical Services (PIO/T)); the request shall also include the following additional information as a minimum:

(1) The specific foreign location(s) where the work is to be performed, including any travel requirements (with an estimate of frequency);

(2) The length of the contract, with beginning and ending dates, plus any options for renewal or extension;

(3) The basic education, training, experience, and skills required for the position;

(4) An estimate of what a comparable GS/FS equivalent position should cost, including basic salary, allowances, and differentials, if appropriate;

(5) A list of Government or host country furnished items (e.g., housing); and

(6) If the PSC will be providing consulting services, include the justification required by AIDAR 737.270(b).

(b) Contracting Officer's Responsibilities.

(1) The Contracting Officer will prepare the solicitation for personal services which shall contain:

(i) Three sets of SF 171s and SF 171As. (Upon receipt, one copy of each SF 171 and SF 171A shall be forwarded to the Project Officer.)

(ii) A detailed statement of duties or a completed position description for the position being recruited for.

(iii) A copy of the prescribed contract Cover Page, Contract Schedule, General Provisions as appropriate, as well as the FAR Clauses to be incorporated in full text and by reference.

(iv) A copy of the AID General Notice entitled "Employee Review of the New Standards of Conduct".

(2) The Contracting Officer shall comply with the requirements of AIDAR 706.302-70(c) as detailed in paragraph 5(c) below.

(c) Competition.

(1) Under AIDAR 706.302-70(b)(1), Personal Services Contracts are exempt from the requirements for full and open competition with two limitations that must be observed by Contracting Officers:

(i) offers are to be requested from as many potential offerors as is practicable under the circumstances, and

(ii) a justification supporting less than full and open competition must be prepared in accordance with FAR 6.303.

(2) A class justification was approved by the AID Procurement Executive to satisfy the requirements of AIDAR 706.302-70(c)(2) for a justification in accordance with FAR 6.303. Use of this class justification for Personal Services Contracts with U.S. Citizens or U.S. Resident Aliens is subject to the following conditions:

(i) If recruited from the United States, the position was either publicized in a U.S. trade/professional/technical publication, the Commerce Business Daily or a newspaper or similar publication, or the procedure in paragraph (iii) below was followed.

(ii) If recruited locally, the position was publicized in the same way that the Mission announces direct hire U.S. citizen positions, or the procedure in paragraph (iii) below was followed.

(iii) As an alternative to the procedures in paragraphs (i) and (ii) above, at least 3 individuals were considered by consulting source lists (e.g., applications or resumes on hand) or conducting other informal solicitation.

(iv) Extensions or renewals with the same individual for continuing services do not need to be publicized.

(v) A copy of the class justification (which was distributed to all AID Contracting Officers via Contract Information Bulletin) must be included in the contract file, together with a written statement, signed by the Contracting Officer, that the contract is being awarded pursuant to AIDAR 706.302-70(b)(1); that the conditions for use of this class justification have been met; and that the cost of the contract is fair and reasonable.

(3) Since the award of a Personal Services Contract is based on technical qualifications, not price, and since the SF 171, "Personal Qualifications Statement", and SF 171A, "Continuation Sheet for Standard Form 171", are used to solicit for such contracts, FAR Subparts 15.4 and 15.5 and FAR Parts 52 and 53 are inappropriate and shall not be used. Instead, the solicitation and selection procedures outlined in this Appendix shall govern.

(4) If the appropriate competitive procedure in paragraph (2) above is not followed, the Contracting Officer must prepare a separate justification as required under AIDAR 706.302-70(c)(2).

AIDAR_D.5

AID Acquisition Regulations (AIDAR)

Appendix D: Direct AID Contracts with a U.S. Citizen or a U.S. Resident Alien for Personal Services Abroad

6. Negotiating a Personal Services Contract

AIDAR, Appendix D, 6. Negotiating a Personal Services Contract

6. Negotiating a Personal Services Contract.

Negotiating a Personal Services Contract is significantly different from negotiating a nonpersonal services contract because it establishes an employer-employee relationship; therefore, the selection procedures are more akin to the personnel selection procedures.

(a) Project Officer's Responsibilities. The Project Officer shall be responsible for reviewing and evaluating the applications (i.e., SF 171s) received in response to the solicitation issued by the Contracting Officer. If deemed appropriate, interviews may be conducted with the applicants before the final selection is submitted to the Contracting Officer.

(b) Contracting Officer's Responsibilities.

(1) The Contracting Officer shall forward a copy of each SF 171 received under the solicitation to the Project Officer for evaluation.

(2) On receipt of the Project Officer's recommendation, the Contracting Officer shall conduct negotiations with the recommended applicant. Normally, the Contracting Officer shall negotiate only the salary (see the salary setting coverage in paragraph 4(e) of this Appendix). The terms and conditions of the contract, including differentials and allowances, are not negotiable or waivable without a properly approved deviation (see AIDAR 701.470). If the Contracting Officer can negotiate a salary that is fair and reasonable, then the award shall be made.

(3) The Contracting Officer shall use the certified salary history on the SF 171 as the basis for salary negotiations, along with the market value of the position being recruited for, and the Project Officer's cost estimate.

(4) The Contracting Officer will obtain two copies of IRS Form W-4, "Employee's Withholding Allowance Certificate" from the successful applicant. (Upon receipt, the Contracting Officer will forward one copy of the W-4 to the office of the Controller.)

(5) Security clearance is required for all U.S. citizens entering into AID PSCs. The Contracting Officer will obtain four sets of SF 86, "Security Investigation Data for Sensitive Position", from the successful applicant and forward them to the Office of Security. PSCs may receive a preliminary clearance and be placed under contract prior to receipt of clearance provided the appropriate paper work has been completed, reviewed by IG/SEC/PSI and acknowledged as a "no objection" to the appropriate Mission. See General Provision 24.

AIDAR_D.6

AID Acquisition Regulations (AIDAR)

Appendix D: Direct AID Contracts with a U.S. Citizen or a U.S. Resident Alien for Personal Services Abroad

7. Executing a Personal Services Contract.

AIDAR, Appendix D, 7. Executing a Personal Services Contract.

7. Executing a Personal Services Contract.

Contracting activities, whether AID/W or Mission, may execute Personal Services Contracts, provided that the amount of the contract does not exceed the contracting authority that has been redelegated to them under Delegation of Authority No. 1103 "To the Assistant to the Administrator for Management, Concerning Acquisition Functions" (50 FR 23842), as amended (see AIDAR 702.170-10).

In executing a Personal Service Contract, the Contracting Officer is responsible for insuring that:

(a) The proposed contract is within his/her delegated authority;

(b) A PIO/T covering the proposed contract has been received;

(c) The proposed scope of work is contractible, contains a statement of minimum qualifications from the technical office requesting the services, and is suitable to the use of a Personal Services Contract in that:

(1) Performance of the proposed work requires or is best suited for an employer-employee relationship, and is thus not suited to the use of a non-personal services contract;

(2) The scope of work does not require performance of any function normally reserved for Federal employees (see paragraph 4(b) of this Appendix); and

(3) There is no apparent conflict of interest involved (if the Contracting Officer believes that a conflict of interest may exist, the

question should be referred to the cognizant legal counsel).

(d) Selection of the contractor is documented and justified. AIDAR 706.302-70(b)(1) provides an exception to the requirement for full and open competition for Personal Services Contracts abroad (see paragraph 5(c) of this Appendix);

(e) The standard contract format prescribed for Personal Services Contracts (Sections 10, 11 and 12 to AIDAR Appendix D) is used; or that any necessary deviations are processed as required by AIDAR 701.470. (Note: The prescribed contract format is designed for use with contractors who are residing in the U.S. when hired. If the contract is with a U.S. citizen residing in the cooperating country when hired, contract provisions governing physical fitness and travel/transportation expenses, and home leave, allowances, and orientation should be suitably modified (see paragraph 4(d) of this Appendix). These modifications are not considered deviations subject to AIDAR 701.470. Justification and explanation of these modifications is to be included in the contract file);

(f) Orientation is arranged in accordance with General Provision 23;

(g) The contractor has submitted the names, addresses, and telephone numbers of at least two persons who may be notified in the event of an emergency (this information is to be retained in the contract file);

(h) The contract is complete and correct and all information required on the contract Cover Page (AID Form 1420-36A) has been entered;

(i) The contract has been signed by the Contracting Office and the contractor, and fully executed copies are properly distributed;

(j) The following clearances, approvals and forms have been obtained, properly completed, and placed in the contract file before the contract is signed by both parties:

(1) Security clearance, including the completed SF 87, to the extent required by AID Handbook 6, Security; (see General Provisions 14 and 24 in Section 11 of this Appendix).

(2) Mission, host country, and project office clearance, as appropriate;

(3) Medical examinations and certifications as required by the contract general provision entitled "Physical Fitness and Health Room Privileges";

(4) One original executed IRS Form W-4 entitled "Employee's Withholding Allowance Certificate" and one copy shall be obtained. The original shall be sent to the Controller of the paying office and one shall be placed in the contract file;

(5) The approval for any salary in excess of FS-1, in accordance with Appendix G of this chapter;

(6) A copy of the class justification or other appropriate explanation and support required by AIDAR 706.302-70, if applicable;

(7) Any deviation to the policy or procedures of this appendix, processed and approved under AIDAR 701.470;

(8) A fully executed SF 171;

(9) The Memorandum of Negotiation; and

(10) The Contracting Officer's signed certification that competition requirements have been met or satisfied as described in paragraph 5(c) of the policy text of Appendix D. The certification shall be a part of the Memorandum of Negotiations.

(k) Funds for the contract are properly obligated to preclude violation of the Anti-Deficiency Act, 31 U.S.C. 1341 (the Contracting Officer ensures that the contract has been properly recorded by the appropriate accounting office prior to its release for the signature of the selected contractor);

(l) The contractor receives and understands the AID General Notice entitled "Employee Review of the New Standards of Conduct" and a copy is attached to each contract as provided for in paragraph (c) of General Provision 2, Section 11";

(m) Agency conflict of interest requirements as set out in the General Notice "Employee Review of the New Standards of Conduct" are met by the

contractor prior to his/her reporting for duty;

(n) A copy of a Checklist for Personal Services contractors which may be in the format set out above or another format convenient for the Contracting Officer, provided that a memorandum containing all of the information described in this paragraph 7 shall be prepared for each PSC and placed in the contract file;

(o) The block entitled, "Project No." on the Cover Page of the contract format is completed by inserting the four-segment project number as prescribed in AID Handbook 18, Information Services;

(p) The contractor understands that he/she is an employee of the United States for purposes of the Foreign Assistance Act of 1961, as amended, and Title 26 United States Code. This subjects the employee to withholding for both FICA and Federal Income Tax and precludes the employee from receiving the Federal Earned Income Tax exclusion of 26 U.S.C. Section 911. See Special Note on the Cover Page.

(q) The contractor also understands that he/she may commence work prior to the completion of the security clearance. However, until such time as clearance is received, the contractor may not have access to classified or administratively controlled materials. Failure to obtain clearances will constitute cause for termination.

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AID Acquisition Regulations (AIDAR)
Appendix D: Direct AID Contracts with a U.S. Citizen or a U.S. Resident Alien for Personal Services Abroad

8. Post Audit

AIDAR, Appendix D, 8. Post Audit

8. Post Audit.

The Inspector General, or their designee, audits the Personal Services Contracts of all contracting activities for the purpose of ensuring conformance to applicable policy and regulations.

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AID Acquisition Regulations (AIDAR)
Appendix D: Direct AID Contracts with a U.S. Citizen or a U.S. Resident Alien for Personal Services Abroad

9. Contracting Format

AIDAR, Appendix D, 9. Contracting Format

9. Contracting Format.

The prescribed Contract Cover Page, Contract Schedule, and General Provisions for Personal Services Contracts covered by this appendix are included as follows:

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AID Acquisition Regulations (AIDAR)
Appendix D: Direct AID Contracts with a U.S. Citizen or a U.S. Resident Alien for Personal Services Abroad

10. Form AID 1420-36, "Cover Page" and "Schedule"

AIDAR, Appendix D, 10. Form AID 1420-36, "Cover Page" and "Schedule"

10. Form AID 1420-36, "Cover Page" and "Schedule".

Section 10

Contract with a U.S. Citizen or U.S. Resident Alien for Personal Services Abroad.

-- Form AID 1420-36A (4/92) (Cover Page)

TABLE OF CONTENTS

Schedule:

(The illustrated Schedule consists of this Table of Contents and Articles I - VI.)

Article I	-	Statement of Duties
Article II	-	Period of Service Overseas
Article III	-	Contractor's Compensation and Reimbursement in U.S. Dollars
Article IV	-	Costs Reimbursable and Logistic Support
Article V	-	Precontract Expenses
Article VI	-	Additional Clauses

General Provisions:

The following provisions numbered as shown below omitting number(s)
, are the General Provisions (GPs) of this Contract:

1. Definitions
2. Laws and Regulations Applicable Abroad
3. Physical Fitness and Health Room Privileges
4. Workweek and Compensation (Pay Comparability Adjustments)
5. Leave and Holidays
6. Differential and Allowances
7. Social Security and Federal Income Tax
8. Advance of Dollar Funds
9. Insurance
10. Travel and Transportation Expenses
11. Payment
12. Conversion of U.S. Dollars to Local Currency
13. Post of Assignment Privileges
14. Security Requirements
15. Contractor-Mission Relationships
16. Termination
17. Release of Information
18. Notices
19. Reports
20. Use of Pouch Facilities
21. Biographical Data
22. Resident Hire PSC
23. Orientation and Language Training
24. Conditions for Contracting Prior to Receipt of Security Clearance
25. Medical Evacuation Services

For each tour of duty, attach the applicable General Provisions.

Schedule: (Note: Use of the following Schedule Articles are not mandatory. They are intended to serve as guidelines for contracting offices in drafting contract schedules. Article language may be changed to suit the needs of the particular contract).

Article I - Statement of Duties:

(The statement of duties shall include:

- A. General statement of the purpose of the contract.
- B. Statement of duties to be performed.
- C. Any AID consultation or orientation.)

Article II - Period of Service Overseas:

Within days after written notice from the Contracting Officer that all clearances, including the doctor's certification required under General Provisions Clause 3, have been received or unless another date is specified by the Contracting Officer in writing, the contractor shall proceed to where he/she shall promptly commence performance of the duties specified above. The contractor's period of service overseas shall be approximately in . (Specify time of duties in each location as well as authorized stopovers with purpose of each.)

Article III - Contractor's Compensation and Reimbursement in U.S. Dollars:

A. Except to the extent reimbursement therefor is payable in the currency of the Cooperating Country pursuant to Article IV, AID shall pay the contractor compensation after it has accrued and reimburse him/her in U.S. dollars for necessary and reasonable costs actually incurred by him/her in the performance of this contract within the categories listed in paragraph C, below, and subject to the conditions and limitations applicable thereto as set out herein and in the attached General Provisions (GP).

B. The amount budgeted and available as personal compensation to the contractor is calculated to cover a calendar period of approximately (days) (weeks) (months) (years) which is to include:

- (1) vacation, sick, and home leave which may be earned during the contractor's tour of duty (GP Clause 5);
- (2) days for authorized travel (GP Clause 10); and
- (3) days for orientation and consultation in the United States (GP Clause 23).

C. Allowable Costs:

1. Compensation at the rate of \$ per (year) (month) (week) (day). Adjustments in compensation (pay) for periods when the contractor is not in compensable pay status shall be calculated as follows: Rate of \$ per (day) (hour).

Contingency for Compensation (Pay Comparability) Adjustments. \$.
Annual Salary increase (3%)

2. Overtime (Unless specifically authorized in the Schedule of this contract, no overtime hours shall be allowed hereunder.) \$

* 3. Overseas Differential (Ref. GP Clause No. 6.) Rate and
Contingency \$ \$

** 4. Allowances in Cooperating Country (Ref. GP Clause 6.)

** 5. Travel and Transportation (Ref. GP Clause 10.) (Includes the value of GTRs furnished by the Government, not payable to contractor). \$

- a. United States \$
- b. International \$
- c. Cooperating and Third Country \$
- Subtotal Item 5

\$

** 6. Subsistence or Per Diem (Ref. GP Clause 10.)
a. United States

\$

- b. International \$
- c. Cooperating and Third Country \$
- Subtotal Item 6 \$

7. Other Direct Costs.

- a. Health and Life Insurance
(Ref. GP Clause 9.) \$

b. Precontract Costs, passport, visa, inoculations, etc. (Ref. GP Clause

8.)		\$
	c. Physical Examination (Ref. GP Clause 3.)	\$
	d. Communications, Miscellaneous.	\$
	Subtotal Item 7	\$

8. F.I.C.A. - U.S.C. contribution
(not payable to contractor).

\$

D. Maximum U.S.-Dollar Obligation:

In no event shall the maximum U.S.-dollar obligation under this contract, exceed \$. Contractor shall keep a close account of all obligations he/she incurs and accrues hereunder and promptly notify the Contracting Officer whenever in his/her opinion the said maximum is not sufficient to cover all compensation and costs reimbursable in U.S. dollars which he/she anticipates under the contract.

Total estimated costs (lines 1 thru 8).\$

Article IV - Costs Reimbursable and Logistic Support:

A. General:

The contractor shall be provided with or reimbursed in local currency
() for the following:
[Complete]

* If post differential is applicable to the assigned post, a contingency for the adjusted amount of differential resulting from compensation (pay comparability) adjustment should be included.

** Do not include the value of any costs to be paid or reimbursed in local currency.

B. Method of Payment of Local Currency Costs:

Those contract costs which are specified as local currency costs in paragraph A above, if not furnished in kind by the cooperating government or the Mission, shall be paid to the contractor in a manner adapted to the local situation, based on vouchers submitted in accordance with General Provision Clause 11. The documentation for such costs shall be on such forms and in such manner as the Mission Director shall prescribe.

Article V - Precontract Expenses:

No expense incurred before execution of this contract will be reimbursed unless such expense was incurred after receipt and acceptance of a precontract expense letter issued to the contractor by the Contracting Officer, and then only in accordance with the provisions and limitations contained in such letter. The rights and obligations created by such letter shall be considered as merged into this contract.

Article VI - Additional Clauses:

(Additional Schedule clauses may be added such as the implementation of General Provisions or Additional Clauses.)

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AID Acquisition Regulations (AIDAR)
Appendix D: Direct AID Contracts with a U.S. Citizen or a U.S. Resident Alien for Personal Services Abroad
11. "General Provisions"
Index of Clauses
AIDAR, Appendix D, 11. "General Provisions", Index of Clauses

11. "General Provisions".

GENERAL PROVISIONS CONTRACT WITH A U.S. CITIZEN OR
A U.S. RESIDENT ALIEN FOR PERSONAL SERVICES ABROAD

The following clauses are to be used (when applicable), for both tours of duty
of less than 1 year as well as 1 year or more.

INDEX OF CLAUSES

1. Definitions
2. Compliance with Laws and Regulations Applicable Abroad
3. Physical Fitness and Health Room Privileges
4. Workweek and Compensation (Pay Comparability
Adjustments)
5. Leave and Holidays
6. Differential and Allowances
7. Social Security, Federal Income Tax, and
Foreign Earned Income
8. Advance of Dollar Funds
9. Insurance
10. Travel and Transportation Expenses
11. Payment
12. Conversion of U.S. Dollars to Local Currency
13. Post of Assignment Privileges
14. Security Requirements
15. Contractor-Mission Relationships
16. Termination
17. Release of Information
18. Notices
19. Reports
20. Use of Pouch Facilities
21. Biographical Data
22. Resident Hire PSC
23. Orientation and Language Training
24. Conditions for Contracting Prior to Receipt
of Security Clearance
25. Medical Evacuation Services

AIDAR_D.11i

AID Acquisition Regulations (AIDAR)
Appendix D: Direct AID Contracts with a U.S. Citizen or a U.S. Resident Alien for
Personal Services Abroad

11. "General Provisions"

1. Definitions

AIDAR, Appendix D, 11. "General Provisions", 1. Definitions

1. DEFINITIONS (JUNE 1990)

- (a) "AID" shall mean the Agency for International Development.
- (b) "Administrator" shall mean the Administrator or the Deputy
Administrator of AID.
- (c) "Contracting Officer" shall mean a person with the authority to enter
into, administer, and/or terminate contracts and make related determinations
and findings. The term includes certain authorized representatives of the

Contracting Officer acting within the limits of their authority as delegated by the Contracting Officer.

(d) "Contractor" shall mean the individual engaged to serve under this contract.

(e) "Cooperating Country" shall mean the foreign country in or for which services are to be rendered hereunder.

(f) "Cooperating Government" shall mean the government of the Cooperating Country.

(g) "Government" shall mean the United States Government.

(h) "Local currency" shall mean the currency of the Cooperating Country.

(i) "Mission" shall mean the United States AID Mission to, or principal AID office in, the Cooperating Country.

(j) "Mission Director" shall mean the principal officer in the Mission in the Cooperating Country, or his/her designated representative.

(k) "Project Officer" shall mean the AID official to whom the contractor reports, and who is responsible for monitoring the contractor's performance.

(l) "Tour of duty" shall mean the contractor's period of service under this contract and shall include orientation in the United States (less language training), authorized leave, and international travel.

(m) "Traveler" shall mean (i) the contractor in authorized travel status or (ii) dependents of the contractor who are in authorized travel status.

(n) "Dependents" means:

(1) Spouse.

(2) Children (including step and adopted children) who are unmarried and under 21 years of age or, regardless of age, are incapable of self-support.

(3) Parents (including step and legally adoptive parents) of the employee or of the spouse, when such parents are at least 51 percent dependent on the contractor for support.

(4) Sisters and brothers (including step or adoptive sisters or brothers) of the contractor, or of the spouse, when such sisters and brothers are at least 51 percent dependent on the contractor for support, unmarried and under 21 years of age, or regardless of age, are incapable of self-support.

(o) "U.S. Resident Alien", as used in this contract, shall mean an alien immigrant, legally resident in the United States, the Commonwealth of Puerto Rico, or the possessions of the United States, and having a valid "Alien Registration and Receipt Card" (Immigration and Naturalization Service forms I-151 or I-551).

(p) "Resident Hire Personal Services Contractor (PSC)" means a U.S. citizen who, at the time of hiring as a PSC, resides in the Cooperating Country:

(1) as a spouse or dependent of a U.S. citizen employed by a U.S. Government Agency or under any U.S. Government-financed contract or agreement, or

(2) for reasons other than for employment with a U.S. Government Agency or under any U.S. Government-financed contract or agreement. A U.S. citizen for purposes of this definition also includes a person who at the time of contracting, is a lawfully admitted permanent resident of the United States.

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AID Acquisition Regulations (AIDAR)

Appendix D: Direct AID Contracts with a U.S. Citizen or a U.S. Resident Alien for Personal Services Abroad

11. "General Provisions"

2. Compliance with Laws and Regulations Applicable Abroad (July 1993)

AIDAR, Appendix D, 11. "General Provisions", 2. Compliance with Laws...

2. COMPLIANCE WITH LAWS AND REGULATIONS APPLICABLE ABROAD (JULY 1993)

(a) Conformity to Laws and Regulations of the Cooperating Country.

Contractor agrees that, while in the cooperating country, he/she as well as authorized dependents will abide by all applicable laws and regulations of the cooperating country and political subdivisions thereof.

(b) Purchase or Sale of Personal Property or Automobiles.

To the extent permitted by the cooperating country, the purchase, sale, import, or export of personal property or automobiles in the cooperating country by the contractor shall be subject to the same limitations and prohibitions which apply to Mission U.S.-citizen direct-hire employees.

(c) Code of Conduct.

The contractor shall, during his/her tour of duty under this contract, be considered an "employee" (or if his/her tour of duty is for less than 130 days, a "special Government employee") for the purposes of, and shall be subject to, the provisions of 18 U.S.C. 202(a) and the AID General Notice entitled "Employee Review of the New Standards of Conduct" pursuant to 5 CFR Part 2635. The contractor acknowledges receipt of a copy of these documents by his/her acceptance of this contract.

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AID Acquisition Regulations (AIDAR)

Appendix D: Direct AID Contracts with a U.S. Citizen or a U.S. Resident Alien for Personal Services Abroad

11. "General Provisions"

3. Physical Fitness and Health Room Privileges (July 1993))

AIDAR, Appendix D, 11. "General Provisions", 3. Physical Fitness...

3. PHYSICAL FITNESS AND HEALTH ROOM PRIVILEGES (JULY 1993)

(a) Physical Fitness.

(1) For all assignments, the contractor and any authorized dependents shall be required to be examined by a licensed doctor of medicine, and the contractor shall obtain from the doctor a certificate that, in the doctor's opinion, the contractor is physically able to engage in the type of activity for which he/she is to be employed under the contract, and the contractor and any dependents are physically able to reside in the Cooperating Country. A copy of the certificate(s) shall be provided to the Contracting Officer prior to the contractor's departure for the Cooperating Country, or for a resident hire, before he/she starts work under the contract.

(2) For assignments of 60 days or more in the Cooperating Country, the Contracting Officer shall provide the contractor and all authorized dependents copies of the "AID Contractor Employee Physical Examination Form". This form is for collection of information; it has been reviewed and approved by OMB, and assigned Control No. 0412-0536. Information required by the Paperwork Reduction Act (burden estimate, points of contract, and OMB approval expiration date) is printed on the form. The contractor and all authorized dependents shall obtain a physical examination from a licensed physician, who will complete the form for each individual. The contractor will deliver the physical examination form(s) to the embassy health unit in the Cooperating Country. A copy of the doctor's certification at the end of the form which identifies the contractor or dependent by name may be used to meet the requirement in (a)(1) above.

(b) Reimbursement.

(1) As a contribution to the cost of medical examinations required by paragraph (a)(1) of this clause, AID shall reimburse the contractor not to exceed \$100 for the physical examination, plus reimbursement of charges for immunizations.

(2) As a contribution to the cost of medical examinations required

by paragraph (a)(2) of this clause the contractor shall be reimbursed in an amount not to exceed half of the cost of the examination up to a maximum AID share of \$300, plus reimbursement of charges for immunizations for the contractor and all authorized dependent 12 years of age or under. The contractor must obtain the prior written approval of the Contracting Officer to receive any AID contributions higher than these limits.

(c) Health Room Privileges. Routine health room services may be available, subject to post policy and in accordance with the requirements of paragraph (a) of this clause, to U.S. citizen contractors and their authorized dependents (regardless of citizenship) at the post of duty. These services do not include hospitalization, or predeparture or end of tour medical examinations. The services normally include such medications as may be available, immunizations and preventive health measures, diagnostic examinations and advice, and home visits as medically indicated. Emergency medical treatment is provided to U.S. citizen contractor employees and dependents, whether or not they may have been granted access to routine health room services, on the same basis as it would be to any U.S. citizen in an emergency medical situation in the country.

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AID Acquisition Regulations (AIDAR)
Appendix D: Direct AID Contracts with a U.S. Citizen or a U.S. Resident Alien for Personal Services Abroad

11. "General Provisions"

4. Workweek and Compensation (Pay Comparability Adjustments) (Dec 1985)

AIDAR, Appendix D, 11. "General Provisions", 4. Workweek & Comp...

4. WORKWEEK AND COMPENSATION (PAY COMPARABILITY ADJUSTMENTS) (DEC 1985)

(a) Workweek.

The contractor's workweek shall not be less than 40 hours, unless otherwise provided in the Contract Schedule, and shall coincide with the workweek for those employees of the Mission or the Cooperating Country agency most closely associated with the work of this contract. If the contract is for less than full time (40 hours weekly), the annual and sick leave earned shall be prorated (see the General Provision of this contract entitled Leave and Holidays).

(b) Compensation (Pay Comparability) Adjustments.

The contractor's compensation shall be adjusted to reflect the pay comparability adjustments which are granted from time to time to U.S. direct-hire employees by Executive Order for the statutory pay systems. Any adjustments authorized are subject to the availability of Mission funds and shall not exceed that percentage stated in the Executive Order granting the adjustment. Further, the adjusted compensation may not exceed the maximum FS-1 annual compensation (or the equivalent daily rate).

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AID Acquisition Regulations (AIDAR)
Appendix D: Direct AID Contracts with a U.S. Citizen or a U.S. Resident Alien for Personal Services Abroad

11. "General Provisions"

5. Leave and Holidays (July 1993)

AIDAR, Appendix D, 11. "General Provisions", 5. Leave and Holidays

5. LEAVE AND HOLIDAYS (JULY 1993)

(a) Vacation Leave.

(1) The contractor shall earn vacation leave at the rate of 13 workdays per annum or 4 hours every 2 weeks. However, no vacation shall be earned if the tour of duty is less than 90 days.

(2) Notwithstanding paragraph (a)(1) above, if the contractor has had previous PSC service (i.e., has served under other personal services contracts (PSCs) covered by Sec. 636(a)(3) of the FAA), he/she shall earn vacation leave at the rate of either 6 hours every two weeks for cumulative PSC service exceeding 3 years, or 8 hours every two weeks for cumulative PSC service exceeding 15 years. Former Civil Service, Foreign Service, or a Military Service experience is not creditable towards PSC service for annual leave purposes.

(3) It is understood that vacation leave is provided under this contract primarily for the purposes of affording necessary rest and recreation during the tour of duty in the Cooperating Country. The contractor in consultation with the AID Mission shall develop a vacation leave schedule early in his/her tour of duty taking into consideration project requirements, employee preference and other factors. All vacation leave earned by the contractor must be used during his/her tour of duty. All vacation leave earned by the contractor but not taken by the end of his/her tour of duty will be forfeited unless the requirements of the project precluded the employee from taking such leave and the Contracting Officer, with the endorsement of the Mission, approves one of the following as an alternative:

(i) Taking, during the concluding weeks of the employee's tour, leave not permitted under (a)(3) of this clause, or

(ii) Lump-sum payment for leave not taken provided such leave does not exceed the number of days which can be earned by the employee during a twelve month period.

(4) With the approval of the Mission Director, and if the circumstances warrant, a contractor may be granted advance vacation leave in excess of that earned, but in no case shall a contractor be granted advance vacation leave in excess of that which he/she will earn over the life of the contract. The contractor agrees to reimburse AID for leave used in excess of the amount earned during the contractor's assignment under the contract.

(b) Sick Leave.

Sick leave is earned at a rate not to exceed 13 work-days per annum or 4 hours every 2 weeks. Unused sick leave may be carried over under an extension of this contract but the contractor will not be compensated for unused sick leave at the completion of this contract.

(c) Home Leave.

(1) Home leave is leave earned for service abroad for use only in the United States, in the Commonwealth of Puerto Rico, or in the possessions of the United States.

(2) A contractor who is a U.S. citizen or U.S. resident alien and has served at least 2 years overseas, as defined in paragraph (c)(4) below, under this contract, and has not taken more than 30 workdays leave (vacation, sick, or leave without pay) in the United States, may be granted home leave of not more than 15 work days for each such year of service overseas; provided, that the contractor agrees to return overseas upon completion of home leave under an additional 2 year appointment, or for such shorter period of not less than 1 year of overseas service under the contract as the Mission Director may approve in advance. Home leave must be taken in the United States, the Commonwealth of Puerto Rico, or the possessions of the United States, and any days spent elsewhere will be charged to vacation leave or leave without pay.

(3) Notwithstanding the requirement in paragraph (c)(2) above, that the contractor must have served 2 years overseas under this contract to be eligible for home leave, the contractor may be granted advance home leave subject to all of the following conditions:

(i) Granting of advance home leave would in each case serve to advance the attainment of the objectives of this contract;

(ii) The contractor shall have served a minimum of 18 months in the Cooperating Country on his/her current tour of duty under this contract; and

(iii) The contractor shall have agreed to return to the Cooperating Country to serve out the remainder of his/her current tour of duty and an additional 2 year appointment under this contract, or such other additional appointment of not less than 1 year of overseas service as the Mission Director may approve.

(4) The period of service overseas required under paragraph (c)(2), or paragraph (c)(3) above, shall include the actual days in orientation in the United States (less language training) and the actual days overseas beginning on the date of departure from the U.S. port of embarkation on international travel and continuing, inclusive of authorized delays enroute, to the date of arrival at the U.S. port of debarkation from international travel. Allowable vacation and sick leave taken while overseas, but not leave without pay, shall be included in the required period of service overseas. An amount equal to the number of days of vacation and sick leave taken in the United States, the Commonwealth of Puerto Rico, or the possessions of the United States will be added to the required period of service overseas.

(5) Salary during travel to and from the United States for home leave will be limited to the time required for travel by the most expeditious air route. The contractor will be responsible for reimbursing AID for payments made during home leave if, in spite of the undertaking of the new appointment, the contractor, except for reasons beyond his/her control as determined by the Contracting Officer, does not return overseas and complete the additional required service. Unused home leave is not reimbursable under this contract.

(6) To the extent deemed necessary by the Contracting Officer, a contractor in the United States on home leave may be authorized to spend not more than 5 days in work status for consultation at AID/Washington before returning to post of duty. Consultation at locations other than AID/Washington as well as any time in excess of 5 days spent for consultation, must be approved by the Mission Director or the Contracting Officer.

(d) Holidays.

The contractor, while serving abroad, shall be entitled to all holidays granted by the Mission to U.S.-citizen direct-hire employees.

(e) Military Leave.

Military leave of not more than 15 calendar days in any calendar year may be granted to a contractor who is a reservist of the Armed Forces, provided that military leave has been approved in advance by the Contracting Officer or the Mission Director. A copy of any such approval shall be provided to the Contracting Officer.

(f) Leave Without Pay.

Leave without pay may be granted only with the written approval of the Contracting Officer or Mission Director.

(g) Leave Records.

The contractor shall maintain current leave records for himself/herself and make them available, as requested by the Mission Director or the Contracting Officer.

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AID Acquisition Regulations (AIDAR)
Appendix D: Direct AID Contracts with a U.S. Citizen or a U.S. Resident Alien for Personal Services Abroad

11. "General Provisions"

6. Differential and Allowances (June 1990)

AIDAR, Appendix D, 11. "General Provisions", 6. Differential & Allow.

6. DIFFERENTIAL AND ALLOWANCES (JUNE 1990)

(a) The following differential and allowances will be granted to the contractor and his/her authorized dependents to the same extent and on the same basis as they are granted to U.S. citizen direct-hire employees at the Mission by the Standardized Regulations (Government Civilians, Foreign Areas), as from time to time amended, except as noted to the contrary below:

	Applicable Reference to Standardized Regulations
(1) Post Differential	Chapter 500 and Tables in Chapter 900
(2) Living Quarters Allowance	Section 130
(3) Temporary Lodging Allowance	Section 120
(4) Post Allowance	Section 220
(5) Supplemental Post Allowance	Section 230
(6) Payments During Evacuation	Section 600
(7) Educational Allowance	Section 270
(8) Separate Maintenance Allowance	Section 260
(9) Danger Pay Allowance	Section 650
(10) Educational Travel	Section 280

(1) Post Differential

Post differential is an additional compensation for service at places in foreign areas where conditions of environment differ substantially from conditions of environment in the continental United States and warrant additional compensation as a recruitment and retention incentive. In areas where post differential is paid to AID direct-hire employees, post differential not to exceed the percentage of salary as is provided such AID employees in accordance with the Standardized Regulations (Government Civilians, Foreign Areas) Chapter 500 (except the limitation contained in Section 552, "Ceiling on Payment") Tables-Chapter 900, as from time to time amended, will be reimbursable hereunder for employees in respect to amounts earned during the time such employees actually spend overseas on work under this contract. When such post differential is provided to the contractor, it shall be payable beginning on the date of arrival at the post of assignment and continue, including periods away from post on official business, until the close of business on the day of departure from post of assignment enroute to the United States. Sick or vacation leave taken at or away from the post of assignment will not interrupt the continuity of the assignment or require a discontinuance of such post differential payments, provided such leave is not taken within the United States or the territories of the United States. Post differential will not be payable while the employee is away from his/her post of assignment for purposes of home leave. Short-term employees shall be entitled to post differential beginning with the forty-third (43rd) day at post.

(2) Living Quarters Allowance

Living quarters allowance is an allowance granted to reimburse an employee for substantially all of his/her cost for either temporary or residence quarters whenever Government-owned or Government-rented quarters are not provided to him/her at his/her post without charge. Such costs are those incurred for temporary lodging (temporary lodging allowance) or one unit of residence quarters (living quarters allowance) and include rent, plus any costs not included therein for heat, light, fuel, gas, electricity and water. The temporary lodging allowance and the living quarters allowance are never both payable to an employee for the same period of time. The contractor will receive living quarters allowance for payment of rent and utilities if such facilities are not supplied. Such allowance shall not exceed the amount paid AID employees of equivalent rank in the Cooperating Country, in accordance with either the Standardized Regulations (Government Civilians, Foreign Areas),

Chapter 130, as from time to time amended, or other rates approved by the Mission Director. Subject to the written approval of the Mission Director, short-term employees may be paid per diem (in lieu of living quarters allowance) at rates prescribed by the Federal Travel Regulations, as from time to time amended, during the time such short-term employees spend at posts of duty in the Cooperating Country under this contract. In authorizing such per diem rates, the Mission Director shall consider the particular circumstances involved with respect to each such short-term employee including the extent to which meals and/or lodging may be made available without charge or at nominal cost by an agency of the United States Government or of the Cooperating Government, and similar factors.

(3) Temporary Lodging Allowance

Temporary lodging allowance is a quarters allowance granted to an employee for the reasonable cost of temporary quarters incurred by the employee and his/her family for a period not in excess of (i) three months after first arrival at a new post in a foreign area or a period ending with the occupation of residence (permanent) quarters, if earlier, and (ii) one month immediately preceding final departure from the post subsequent to the necessary vacating of residence quarters. The contractor will receive temporary lodging allowance for himself/herself and authorized dependents, in lieu of living quarters allowance, not to exceed the amount set forth in the Standardized Regulations (Government Civilians, Foreign Areas), Chapter 120, as from time to time amended.

(4) Post Allowance

Post allowance is a cost-of-living allowance granted to an employee officially stationed at a post where the cost of living, exclusive of quarters cost, is substantially higher than in Washington, D.C. The contractor will receive post allowance payments not to exceed those paid AID employees in the Cooperating Country, in accordance with the Standardized Regulations (Government Civilians, Foreign Areas), Chapter 220, as from time to time amended.

(5) Supplemental Post Allowance

Supplemental post allowance is a form of post allowance granted to an employee at his/her post when it is determined that assistance is necessary to defray extraordinary subsistence costs. The contractor will receive supplemental post allowance payments not to exceed the amount set forth in the Standardized Regulations (Government Civilians, Foreign Areas), Chapter 230, as from time to time amended.

(6) Payments During Evacuation

The Standardized Regulations (Government Civilians, Foreign Areas) provide the authority for efficient, orderly, and equitable procedure for the payment of compensation, post differential and allowances in the event of an emergency evacuation of employees or their dependents, or both, from duty stations for military or other reasons or because of imminent danger to their lives. If evacuation has been authorized by the Mission Director, the contractor will receive payments during evacuation for himself/herself and authorized dependents evacuated from their post of assignment in accordance with the Standardized Regulations (Government Civilians, Foreign Areas), Chapter 600, and the Federal Travel Regulations, as from time to time amended.

(7) Educational Allowance

Educational allowance is an allowance to assist the contractor in meeting the extraordinary and necessary expenses, not otherwise compensated for, incurred by reason of his/her service in a foreign area in providing adequate elementary and secondary education for his/her children. The contractor will receive educational allowances payments for his/her dependent children in amounts not to exceed those set forth in Standardized Regulations (Government Civilians, Foreign Areas), Chapter 270, as from time to time amended.

(8) Separate Maintenance Allowance

Separate maintenance allowance is an allowance to assist an employee who is compelled by reason of dangerous, notably unhealthful, or excessively

adverse living conditions at his/her post of assignment in a foreign area, or for the convenience of the Government, to meet the additional expense of maintaining his/her dependents elsewhere than at such post. The contractor will receive separate maintenance allowance payments not to exceed that made to AID employees in accordance with the Standardized Regulations (Government Civilians, Foreign Areas), Chapter 260, as from time to time amended.

(9) Danger Pay Allowance

Danger pay allowance is an allowance to provide additional compensation above basic compensation to employees in foreign areas where civil insurrection, civil war, terrorism or wartime conditions threaten physical harm or imminent danger to the health or well-being of the employee. The danger pay allowance is in lieu of that part of the post differential which is attributable to political violence. Consequently, the post differential may be reduced while danger pay is in effect to avoid dual crediting for political violence. The contractor shall be allowed danger pay allowance not to exceed that paid AID employees in the Cooperating Country, in accordance with the Standardized Regulations (Government Civilians, Foreign Areas), Chapter 650, as from time to time amended.

(10) Educational Travel

Educational travel is travel to and from a school in the United States for secondary education (in lieu of an educational allowance) and for college education. The contractor will receive educational travel payments for his/her dependent children provided such payment does not exceed that which would be payable in accordance with the Standardized Regulations (Government Civilians, Foreign Areas), Chapter 280, as from time to time amended. Educational travel shall not be authorized for contractors whose assignment is less than two years.

The allowances provided in paragraphs 1 through 10 of this provision shall be paid to the contractor in dollars or in the currency of the Cooperating Country in accordance with practice prevailing at the Mission, or the Mission Director may direct that the contractor be paid a per diem in lieu thereof as prescribed by the Standardized Regulations (Government Civilians, Foreign Areas), as from time to time amended.

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AID Acquisition Regulations (AIDAR)

Appendix D: Direct AID Contracts with a U.S. Citizen or a U.S. Resident Alien for Personal Services Abroad

11. "General Provisions"

7. Social Security, Federal Income Tax, and Foreign Earned Income (6-90)

AIDAR, Appendix D, 11. "General Provisions", 7. SS, Fed. Income Tax...

7. SOCIAL SECURITY, FEDERAL INCOME TAX, AND FOREIGN EARNED INCOME (JUNE 1990)

(a) Since the contractor is an employee, F.I.C.A. contributions and U.S. Federal Income Tax withholding shall be deducted in accordance with regulations and rulings of the Social Security Administration and the U.S. Internal Revenue Service, respectively.

(b) As an employee, the contractor is not eligible for the "foreign earned income" exclusion under the IRS Regulations (see 26 CFR 1.911-3(c)(3)).

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AID Acquisition Regulations (AIDAR)

Appendix D: Direct AID Contracts with a U.S. Citizen or a U.S. Resident Alien for Personal Services Abroad

11. "General Provisions"

8. Advance of Dollar Funds (Dec 1985)

AIDAR, Appendix D, 11. "General Provisions", 8. Advance of Dollar Funds

8. ADVANCE OF DOLLAR FUNDS (DEC 1985)

If requested by the contractor and authorized in writing by the Contracting Officer, AID will arrange for an advance of funds to defray the initial cost of travel, travel allowances, authorized precontract expenses, and shipment of personal property. The advance shall be granted on the same basis as to an AID U.S.-citizen direct-hire employee in accordance with AID Handbook 22, Chapter 4.

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AID Acquisition Regulations (AIDAR)

Appendix D: Direct AID Contracts with a U.S. Citizen or a U.S. Resident Alien for Personal Services Abroad

11. "General Provisions"

9. Insurance (June 1990)

AIDAR, Appendix D, 11. "General Provisions", 9. Insurance

9. INSURANCE (JUNE 1990)

(a) Worker's Compensation Benefits.

The contractor shall be provided worker's compensation benefits in accordance with the Federal Employees' Compensation Act.

(b) Health and Life Insurance.

(1) The contractor shall be provided a maximum contribution of up to 50% against the actual costs of the contractor's annual health insurance costs, provided that such costs may not exceed the maximum U.S. Government contribution for direct-hire personnel as announced annually by the Office of Personnel Management.

(2) The contractor shall be provided a contribution of up to 50% against the actual costs of annual life insurance not to exceed \$500.00 per year.

(3) Retired U.S. Government employees shall not be paid additional contributions for health or life insurance under their contracts. The Government will normally have already paid its contribution for the retiree unless the employee can prove to the satisfaction of the Contracting Officer that his/her health and life insurance does not provide or specifically excludes coverage overseas. If excluded coverage overseas were the case, then eligibility as cited above would be applicable.

(4) Proof of health and life insurance coverage shall be submitted to the Contracting Officer before any contribution is paid. On assignments of less than one year, costs for health and life insurance shall be prorated and paid accordingly.

(5) A contractor who is a spouse of a current or retired Civil Service, Foreign Service, or Military Service member and who is covered by their spouse's Government health or life insurance policy is ineligible for the contribution under paragraphs (a)(1) or (a)(2) of this provision.

(c) Insurance on Private Automobiles.

If the contractor or his/her dependents transport, or cause to be transported, privately owned automobile(s) to the Cooperating Country, or any of them purchase an automobile within the Cooperating Country, the contractor agrees to ensure that all such automobile(s) during such ownership within the Cooperating Country will be covered by a paid-up insurance policy issued by a reliable company providing the following minimum coverages, or such other

minimum coverages as may be set by the Mission Director, payable in U.S. dollars or its equivalent in the currency of the Cooperating Country: injury to persons, \$10,000/\$20,000; property damage, \$5,000. The contractor further agrees to deliver, or cause to be delivered to the Mission Director, the insurance policies required by this clause or satisfactory proof of the existence thereof, before such automobile(s) is operated within the Cooperating Country. The premium costs for such insurance shall not be a reimbursable cost under this contract.

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AID Acquisition Regulations (AIDAR)

Appendix D: Direct AID Contracts with a U.S. Citizen or a U.S. Resident Alien for Personal Services Abroad

11. "General Provisions"

10. Travel and Transportation Expenses (July 1993)

AIDAR, Appendix D, 11. "Gen. Prov.", 10. Travel & Trans. Expenses

10. TRAVEL AND TRANSPORTATION EXPENSES (JULY 1993)

(a) General

(1) AID/Washington Office of Administrative Services, or such other office as may be designated by that office, may furnish Transportation Requests (TR's) to the contractor for transportation authorized by this contract originating in the United States, and the executive or administrative officer at the Mission may furnish TR's for such authorized transportation which is payable in local currency or is to originate overseas. When transportation is not provided by the Government-issued TR, the contractor shall procure his/her own transportation, the costs of which will be reimbursed in accordance with the terms of this contract.

(2) The contractor will be reimbursed for reasonable, allocable and allowable travel and transportation expenses incurred under and for the performance of this contract. Determination of reasonableness, allocability and allowability will be made by the Contracting Officer in accordance with AID's established policies and procedures for AID direct-hire employees, and the particular needs of the project being implemented by this contract. The following paragraphs provide specific guidance and limitations on particular items of cost.

(b) U.S. Travel and Transportation.

The contractor shall be reimbursed for actual transportation costs and travel allowances in the United States as authorized in the Contract Schedule or approved in advance by the Contracting Officer or the Mission Director. Transportation costs and travel allowances shall not be reimbursed in any amount greater than the cost of, and time required for, economy-class commercially scheduled air travel by the most expeditious route except as otherwise provided in paragraph (g) of this provision unless economy air travel is not available and the contractor certifies to this in his/her voucher or other documents submitted for reimbursement.

(c) International Travel.

For travel to and from post of assignment, the contractor shall be reimbursed for travel costs and travel allowances from place of residence in the United States (or other location provided that the cost of such travel does not exceed the cost of the travel from the contractor's residence in the United States) to the post of duty in the Cooperating Country and return to place of residence in the United States (or other location provided that the cost of such travel does not exceed the cost of travel from the post of duty in the Cooperating Country to the contractor's residence) upon completion of services by the individual. Reimbursement for travel will be in accordance with AID's

established policies and procedures for its direct-hire employees and the provisions of this contract, and will be limited to the cost of travel by the most direct and expeditious route. If the contract is for longer than one year and the contractor does not complete one full year at post of duty (except for reasons beyond his/her control), the costs of going to and from the post of duty for the contractor and his/her dependents are not reimbursable hereunder. If the contractor serves more than one year but less than the required service in the Cooperating Country (except for reasons beyond his/her control) the costs of going to the post of duty are reimbursable hereunder but the costs of going from post of duty to the contractor's permanent, legal place of residence at the time he or she was employed for work under this contract, or other location as approved by the Contracting Officer, are not reimbursable under this contract for the contractor and his/her dependents. When travel is by economy class accommodations, the contractor will be reimbursed for the cost of transporting up to 10 kilograms/22 pounds of accompanied personal baggage per traveler in addition to that regularly allowed with the economy ticket provided that the total number of pounds of baggage does not exceed that regularly allowed for first class travelers. Travel allowances for travelers shall not be in excess of the rates authorized in the Standardized Regulations (Government Civilians, Foreign Areas)-hereinafter referred to as the Standardized Regulations - as from time to time amended, for not more than the travel time required by scheduled commercial air carrier using the most expeditious route. One stopover enroute for a period of not to exceed 24 hours is allowable when the traveler uses economy class accommodations for a trip of 14 hours or more of scheduled duration. Such stopover shall not be authorized when travel is by indirect route or is delayed for the convenience of the traveler. Per diem during such stopover shall be paid in accordance with the Federal Travel Regulations as from time to time amended.

(d) Local Travel. Reimbursement for local travel in connection with duties directly referable to the contract shall not be in excess of the rates established by the Mission Director for the travel costs of travelers in the Cooperating Country. In the absence of such established rates the contractor shall be reimbursed for actual travel costs in the Cooperating Government or the Mission, including travel allowances at rates not in excess of those prescribed by the Standardized Regulations.

(e) Indirect Travel for Personal Convenience. When travel is performed by an indirect route for the personal convenience of the traveler, the allowable costs of such travel will be computed on the basis of the cost of allowable air fare via the direct usually traveled route. If such costs include fares for air or ocean travel by foreign flag carriers, approval for indirect travel by such foreign flag carriers must be obtained from the Contracting Officer or the Mission Director before such travel is undertaken, otherwise only that portion of travel accomplished by the United States-flag carriers will be reimbursable within the above limitation of allowable costs.

(f) Limitation on Travel by Dependents. Travel costs and allowances will be allowed for authorized dependents of the contractor and such costs shall be reimbursed for travel from place of abode to assigned station in the Cooperating Country and return, only if the dependent remains in the Cooperating Country for at least 9 months or one-half of the required tour of duty of the contractor, whichever is greater, except as otherwise authorized hereunder for education, medical or emergency visitation travel. If the dependent is eligible for educational travel pursuant to the "Differential and Allowances" clause of this contract, time spent away from post resulting from educational travel will be counted as time at post.

(g) Delays Enroute. The contractor may be granted reasonable delays enroute while in travel status when such delays are caused by events beyond the control of the contractor and are not due to circuitous routing. It is understood that if delay is caused by physical incapacitation, he/she shall be eligible for such sick leave as provided under the "Leave and Holidays" clause of this contract.

(h) Travel by Privately Owned Automobile (POV). If travel by POV is authorized in the contract schedule or approved by the Contracting Officer, the

contractor shall be reimbursed for the cost of travel performed in his/her POV at a rate not to exceed that authorized in the Federal Travel Regulations plus authorized per diem for the employee and for each of the authorized dependents traveling in the POV, if the POV is being driven to or from the Cooperating Country as authorized under the contract, provided that the total cost of the mileage and the per diem paid to all authorized travelers shall not exceed the total constructive cost of fare and normal per diem by all authorized travelers by surface common carrier or authorized air fare, whichever is less.

(i) Emergency and Irregular Travel and Transportation.

Emergency transportation costs and travel allowances while enroute, as provided in this section, will be reimbursed not to exceed amounts authorized by the Foreign Service Travel Regulations for AID-direct hire employees in like circumstances under the following conditions:

(1) The costs of going from post of duty in the Cooperating Country to the employee's permanent, legal place of residence at the time he or she was employed for work under this contract or other location for contractor employees and dependents and returning to the post of duty, subject to the prior written approval of the Mission Director that such travel is necessary for one of the following reasons.

(i) Need for medical care beyond that available within the area to which the employee is assigned, or serious effect on physical or mental health if residence is continued at assigned post of duty. The Mission Director may authorize a medical attendant to accompany the employee at contract expense if, based on medical opinion, such an attendant is necessary.

(ii) Death, or serious illness or injury of a member of the immediate family of the employee or the immediate family of the employee's spouse.

(2) When, for any reason, the Mission Director determines it is necessary to evacuate the contractor or contractor dependents, the contractor will be reimbursed for travel and transportation expenses and travel allowance while enroute, for the cost of the individuals going from post of duty in the Cooperating Country to the employee's permanent, legal place of residence at the time he or she was employed for work under this contract or other approved location. The return of such employees and dependents may also be authorized by the Mission Director when, in his/her discretion, he/she determines it is prudent to do so.

(3) The Mission Director may also authorize emergency or irregular travel and transportation in other situations, when in his/her opinion, the circumstances warrant such action. The authorization shall include the kind of leave to be used and appropriate restrictions as to time away from post, transportation of personal and household effects, etc.

(j) Home Leave Travel. To the extent that home leave has been authorized as provided in the "Leave and Holidays" clause of this contract, the cost of travel for home leave is reimbursable for travel costs and travel allowances of travelers from the post of duty in the Cooperating Country to place of residence in the United States (or other location provided that the cost of such travel does not exceed the cost of travel to the contractor's residence in the United States) and return to the post of duty in the Cooperating Country. Reimbursement for travel will be in accordance with the Uniform State/AID/USIA Foreign Service Travel Regulations, as from time to time amended, and will be limited to the cost of travel by the most direct and expeditious route. Travel allowances for travelers shall be accordance with the rates authorized in the Standardized Regulations as from time to time amended, for not more than the travel time required by scheduled commercial air carrier using the most expeditious route. One stopover enroute for a period of not to exceed 24 hours is allowable when the traveler uses economy class accommodations for a trip of 14 hours or more of scheduled duration. Such stopover shall not be authorized when travel is by indirect route or is delayed for the convenience of the traveler. Per diem during such stopover shall be paid in accordance with the Standardized Regulations.

(k) Rest and Recuperation Travel. If approved in writing by the Mission

Director, the contractor and his/her dependents shall be allowed rest and recuperation travel on the same basis as authorized AID direct-hire Mission employees and their dependents.

(1) Transportation of Motor Vehicles, Personal Effects and Household Goods.

(1) Transportation costs will be paid on the same basis as for AID direct-hire employees serving the same length tour of duty, as authorized in the schedule. Transportation, including packing and crating costs, will be paid for shipping from the point of origin in the United States (or other location as approved by the Contracting Officer) to post of duty in the Cooperating Country and return to point of origin in the United States (or other location as approved by the Contracting Officer) of one privately-owned vehicle for the contractor, personal effects of the contractor and authorized dependents, and household goods of the contractor not to exceed the limitations in effect for such shipments for AID direct-hire employees in accordance with the Foreign Service Travel Regulations in effect at the time shipment is made. These limitations may be obtained from the Contracting Officer.

(2) The cost of transporting motor vehicles and household goods shall not exceed the cost of packing, crating, and transportation by surface common carrier. In the event that the carrier does not require boxing or crating of motor vehicles for shipment to the Cooperating Country, the cost of boxing or crating is not reimbursable. The transportation of a privately owned motor vehicle for a contractor may be authorized as a replacement of the last such motor vehicle shipped under this contract for such contractor when the Mission Director determines, in advance, and so notifies the contractor in writing, that the replacement is necessary for reasons not due to the negligence or malfeasance of the contractor. The determination shall be made under the same rules and regulations that apply to authorized Mission U.S. citizen direct-hire employees.

(m) Unaccompanied Baggage.

Unaccompanied baggage is considered to be those personal belongings needed by the traveler immediately upon arrival of the contractor and dependents, consideration should be given to advance shipments of unaccompanied baggage. The contractor will be reimbursed for costs of shipment of unaccompanied baggage (in addition to the weight allowance for household effects) not to exceed the limitations in effect for AID direct-hire employees in accordance with the Foreign Service Travel Regulations as in effect when shipment is made. These limitations are available from the Contracting Officer. This unaccompanied baggage may be shipped as air freight by the most direct route between authorized points of origin and destination regardless of the modes of travel used. This provision is applicable to home leave travel when authorized by the terms of this contract.

(n) International Ocean Transportation.

(i) Transportation of things. Where U.S. flag vessels are not available, or their use would result in a significant delay, the contractor may obtain a release from the requirement to use U.S. flag vessels from the Transportation Division, Office of Procurement, Agency for International Development, Washington, D.C. 20523-1419, or the Mission Director, as appropriate, giving the basis for the request.

(ii) Transportation of persons. Where U.S. flag vessels are not available, or their use would result in a significant delay, the contractor may obtain a release from the requirement to use U.S. flag vessels from the Contracting Officer or the Mission Director, as appropriate.

(2) Transportation of foreign-made vehicles. Reimbursement of the costs of transporting a foreign-made motor vehicle will be made in accordance with the provisions of the Foreign Service Travel Regulations.

(3) Reduced rates on U.S.-flag carriers are in effect for shipments of household goods and personal effects of AID contractors between certain locations. These reduced rates are available provided the shipper furnishes to the carrier at the time of the issuance of the Bill of Lading documentary evidence that the shipment is for the account of AID. The Contracting Officer

will, on request, furnish to the contractor current information concerning the availability of a reduced rate with respect to any proposed shipment. The contractor will not be reimbursed for shipments of household goods or personal effects in amounts in excess of the reduced rates which are available in accordance with the foregoing.

(o) Storage of household effects. The cost of storage charges (including packing, crating, and drayage costs) in the U.S. of household goods of the contractor will be permitted in lieu of transportation of all or any part of such goods to the Cooperating Country under paragraph (1) above provided that the total amount of effects shipped to the Cooperating Country or stored in the U.S. shall not exceed the amount authorized for AID direct-hire employees under the Uniform Foreign Service Travel Regulations. These amounts are available from the Contracting Officer.

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AID Acquisition Regulations (AIDAR)

Appendix D: Direct AID Contracts with a U.S. Citizen or a U.S. Resident Alien for Personal Services Abroad

11. "General Provisions"

11. Payment (June 1990)

AIDAR, Appendix D, 11. "General Provisions", 11. Payment

11. PAYMENT (JUNE 1990)

(a) Once each month (or at more frequent intervals, if approved by the paying office indicated on the Cover Page), the contractor may submit to such office form SF 1034 "Public Voucher for Purchases and Services Other Than Personal" (original) and SF 1034-A (three copies), each voucher identified by the AID contract number properly executed in the amount of dollars claimed during the period covered. The voucher forms shall be supported by:

(1) The contractor's detailed invoice, in original and two copies, indicating for each amount claimed the paragraph of the contract under which payment is to be made, supported when applicable as follows:

(i) For compensation - a statement showing period covered, days worked, and days when contractor was in authorized travel, leave, or stopover status for which compensation is claimed. All claims for compensation will be accompanied by, or will incorporate, a certification signed by the Project Officer covering days or hours worked, or authorized travel or leave time for which compensation is claimed.

(ii) For travel and transportation - a statement of itinerary with attached carrier's receipt and/or passenger's coupons, as appropriate.

(iii) For reimbursable expenses - an itemized statement supported by original receipts.

(2) The first voucher submitted shall account for, and liquidate the unexpended balance of, any funds advanced to the contractor.

(b) A final voucher shall be submitted by the contractor promptly following completion of the duties under this contract but in no event later than 120 days (or such longer period as the Contracting Officer may in his/her discretion approve in writing) from the date of such completion. The contractor's claim, which includes his/her final settlement of compensation, shall not be paid until after the performance of the duties required under the terms of this contract has been approved by AID. On receipt and approval of the voucher designated by the contractor as the "final voucher" submitted on form SF 1034 (original) and SF 1034-A (three copies), together with a refund check for the balance remaining on hand of any funds which may have been advanced to the contractor, the Government shall pay any amounts due and owing the contractor.

(c) Interest on Overdue Payments

(1) The Prompt Payment Act, Public Law 97-177 (96 Stat. 85.31; U.S.C. 1801) is applicable to payments under this contract and requires the payment to the contractor of interest on overdue payments and improperly taken discounts.

(2) Determinations of interest due will be made in accordance with the provisions of the Prompt Payment Act and Office of Management and Budget Circular A-125 except as provided in paragraph (3) below or as otherwise specifically provided under this contract.

(3) Notwithstanding the provisions of OMB Circular A-125, Section 4.1, the Government will use its best efforts to make payments under this contract as soon as practicable following receipt of a proper invoice.

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AID Acquisition Regulations (AIDAR)

Appendix D: Direct AID Contracts with a U.S. Citizen or a U.S. Resident Alien for Personal Services Abroad

11. "General Provisions"

12. Conversion of U.S. Dollars to Local Currency (Dec 1985)

AIDAR, Appen. D, 11. "Gen. Prov.", 12. Conver. Dollars-Local Currency

12. CONVERSION OF U.S. DOLLARS TO LOCAL CURRENCY (DEC 1985)

Upon arrival in the Cooperating Country, and from time to time as appropriate, the contractor shall consult with the Mission Director or his/her authorized representative who shall provide, in writing, the policy the contractor shall follow in the conversion of U.S. dollars to local currency.

This may include, but not be limited to the conversion of said currency through the cognizant U.S. Disbursing Officer, or Mission Controller, as appropriate.

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AID Acquisition Regulations (AIDAR)

Appendix D: Direct AID Contracts with a U.S. Citizen or a U.S. Resident Alien for Personal Services Abroad

11. "General Provisions"

13. Post of Assignment Privileges (July 1993)

AIDAR, Appendix D, 11. "Gen. Prov.", 13. Post of Assignment Priv.

13. POST OF ASSIGNMENT PRIVILEGES (JULY 1993)

Privileges such as the use of APO, PX's, commissaries and officer's clubs are established at posts abroad under agreements between the U.S. and host governments. These facilities are intended for and usually limited to members of the official U.S. establishment including the Embassy, AID Mission, U.S. Information Service and the Military. Normally, the agreements do not permit these facilities to be made available to non-official Americans. However, in those cases where facilities are open to non-official Americans, they may be used.

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AID Acquisition Regulations (AIDAR)
Appendix D: Direct AID Contracts with a U.S. Citizen or a U.S. Resident Alien for
Personal Services Abroad

11. "General Provisions"

14. Security Requirements (June 1990)

AIDAR, Appendix D, 11. "General Provisions", 14. Security Requirements

14. SECURITY REQUIREMENTS (JUNE 1990)

(a) This entire provision shall apply to the extent that this contract involves access to classified information ("Confidential", "Secret", or "Top Secret") or access to administratively controlled information ("Limited Official Use"). Contractors that are not U.S. citizens shall not have access to classified or administratively controlled information.

(b) The contractor (1) shall be responsible for safeguarding all classified or administratively controlled information in accordance with appropriate instructions furnished by the AID Office of Security (IG/SEC), as referenced in paragraph (d) of this provision and shall not supply, disclose, or otherwise permit access to classified information or administratively controlled information to any unauthorized person; (2) shall not make or permit to be made any reproductions of classified information or administratively controlled information except with the prior written authorization of the Contracting Officer or Mission Director; (3) shall submit to the Contracting Officer, at such times as the Contracting Officer may direct, an accounting of all reproductions of classified or administratively controlled information; and (4) shall not incorporate in any other project any matter which will disclose classified and/or administratively controlled information except with the prior written authorization of the Contracting Officer.

(c) The contractor shall follow the procedures for classifying, marking, handling, transmitting, disseminating, storing, and destroying official material in accordance with the regulations in the Foreign Affairs Manual, Chapter 5 (5 FAM 900), a copy of which will be furnished by the Contracting Officer or Mission Director.

(d) The contractor agrees to submit immediately to the Mission Director or Contracting Officer a complete detailed report, appropriately classified, of any information which the contractor may have concerning existing or threatened espionage, sabotage, or subversive activity.

(e) The Government agrees that, when necessary, it shall indicate by security classification or administratively controlled designation, the degree of importance to the national defense of information to be furnished by the contractor to the Government or by the Government to the contractor, and the Government shall give written notice of such security classification or administratively controlled designation to the contractor and of any subsequent changes thereof. The contractor is authorized to rely on any letter or other written instrument signed by the Contracting Officer changing a security classification or administratively controlled designation of information.

(f) The contractor agrees to certify after completion of his/her assignment under this contract that he/she has surrendered or disposed of all classified and/or administratively controlled information in his/her custody in accordance with applicable security instructions.

AIDAR_D.1114

AID Acquisition Regulations (AIDAR)
Appendix D: Direct AID Contracts with a U.S. Citizen or a U.S. Resident Alien for
Personal Services Abroad

11. "General Provisions"

15. Contractor-mission Relationships (Dec 1985)

AIDAR, Appen. D, 11. "Gen. Prov.", 15. Contractor-Mission Relations

15. CONTRACTOR-MISSION RELATIONSHIPS (DEC 1985)

(a) The Contractor acknowledges that this contract is an important part of the U.S. Foreign Assistance Program and agrees that his/her duties will be carried out in such a manner as to be fully commensurate with the responsibilities which this entails.

(b) While in the Cooperating Country, the contractor is expected to show respect for the conventions, customs, and institutions of the Cooperating Country and not interfere in its political affairs.

(c) If the contractor's conduct is not in accordance with paragraph (b) of this provision, the contract may be terminated under General Provision 16 of this contract. The Contractor recognizes the right of the U.S. Ambassador to direct his/her immediate removal from any country when, in the discretion of the Ambassador, the interests of the United States so require.

(d) The Mission Director is the chief representative of AID in the Cooperating Country. In this capacity, he/she is responsible for the total AID Program in the Cooperating Country including certain administrative responsibilities set forth in this contract and for advising AID regarding the performance of the work under the contract and its effect on the U.S. Foreign Assistance Program. The contractor will be responsible for performing his/her duties in accordance with the statement of duties called for by the contract. However, he/she shall be under the general policy guidance of the Mission Director, and shall keep the Mission Director or his/her designated representative currently informed of the progress of the work under this contract.

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AID Acquisition Regulations (AIDAR)

Appendix D: Direct AID Contracts with a U.S. Citizen or a U.S. Resident Alien for Personal Services Abroad

11. "General Provisions"

16. Termination

AIDAR, Appendix D, 11. "General Provisions", 16. Termination

16. TERMINATION (NOV 1989)

(This is an approved deviation to be used in place of the clause specified in FAR 52.249-12.)

(a) The Government may terminate performance of work under this contract in whole or, from time to time, in part:

(1) For cause, which may be effected immediately after establishing the facts warranting the termination, by giving written notice and a statement of reasons to the contractor in the event (i) the Contractor commits a breach or violation of any obligations herein contained, (ii) a fraud was committed in obtaining this contract, or (iii) the contractor is guilty (as determined by AID) of misconduct in the Cooperating Country. Upon such a termination, the contractor's right to compensation shall cease when the period specified in such notice expires or the last day on which the contractor performs services hereunder, whichever is earlier. No costs of any kind incurred by the contractor after the date such notice is delivered shall be reimbursed hereunder except the cost of return transportation (not including travel allowances), if approved by the Contracting Officer. If any costs relating to the period subsequent to such date have been paid by AID, the contractor shall promptly refund to AID any such prepayment as directed by the Contracting Officer.

(2) For the convenience of AID, by giving not less than 15 calendar

days advance written notice to the contractor. Upon such a termination, contractor's right to compensation shall cease when the period specified in such notice expires except that the contractor shall be entitled to return transportation costs and travel allowances and transportation of unaccompanied baggage costs at the rates specified in the contract and subject to the limitations which apply to authorized travel status.

(3) For the convenience of AID, when the contractor is unable to complete performance of his/her services under the contract by reason of sickness or physical or emotional incapacity based upon a certification of such circumstances by a duly qualified doctor of medicine approved by the Mission. The contract shall be deemed terminated upon delivery to the Contractor of a termination notice. Upon such a termination, the contractor shall not be entitled to compensation except to the extent of any unused vacation or sick leave but shall be entitled to return transportation, travel allowances, and unaccompanied baggage costs at rates specified in the contract and subject to the limitations which apply to authorized travel status.

(b) The contractor, with the written consent of the Contracting Officer, may terminate this contract upon at least 15 days' written notice to the Contracting Officer.

AIDAR_D.1116

AID Acquisition Regulations (AIDAR)
Appendix D: Direct AID Contracts with a U.S. Citizen or a U.S. Resident Alien for Personal Services Abroad

11. "General Provisions"

17. Release of Information (Dec 1985)

AIDAR, Appendix D, 11. "General Provisions", 17. Release of Info

17. RELEASE OF INFORMATION (DEC 1985)

All rights in data and reports shall become the property of the U.S. Government. All information gathered under this contract by the contractor and all reports and recommendations hereunder shall be treated as confidential by the Contractor and shall not, without the prior written approval of the Contracting Officer, be made available to any person, party, or government, other than AID, except as otherwise expressly provided in this contract.

AIDAR_D.1117

AID Acquisition Regulations (AIDAR)
Appendix D: Direct AID Contracts with a U.S. Citizen or a U.S. Resident Alien for Personal Services Abroad

11. "General Provisions"

18. Notices (Dec 1985)

AIDAR, Appendix D, 11. "General Provisions", 18. Notices

18. NOTICES (DEC 1985)

Any notice, given by any of the parties hereunder, shall be sufficient only if in writing and delivered in person or sent by telegraph, telegram, registered, or regular mail as follows:

To AID:

Administrator

Agency for International Development

Washington, D.C. 20523

Attention: Contracting Officer

(name of the cognizant Contracting Officer with a copy to the appropriate Mission Director).

To Contractor:

At his/her post of duty while in the Cooperating Country and at the Contractor's address shown on the Cover Page of this contract or to such other address as either of such parties shall designate by notice given as herein required. Notices hereunder shall be effective in accordance with this clause or on the effective date of the notice, whichever is later.

AIDAR_D.1118

AID Acquisition Regulations (AIDAR)

Appendix D: Direct AID Contracts with a U.S. Citizen or a U.S. Resident Alien for Personal Services Abroad

11. "General Provisions"

19. Reports (June 1987)

AIDAR, Appendix D, 11. "General Provisions", 19. Reports

19. REPORTS (JUNE 1987)

(a) The Contractor shall prepare and submit 2 copies of each technical report required by the schedule of this contract to the Bureau for Program and Policy Coordination, Center for Development Information and Evaluation, Development Information Division (PPC/CDIE/DI). All documents should be mailed to:

PPC/CDIE/DI
ACQUISITIONS
Room 209, SA-18
Agency for International Development
Washington, D.C. 20523-1802

The title page of all reports forwarded to PPC/CDIE/DI pursuant to this paragraph shall include a descriptive title, the author's name(s), contract number, project number and title, contractor's name, name of the AID project office, and the publication or issuance date of the report.

b) When preparing reports, the contractor shall refrain from using elaborate art work, multicolor printing and expensive paper/binding, unless it is specifically authorized in the Contract Schedule. Wherever possible, pages should be printed on both sides using single spaced type.

AIDAR_D.1119

AID Acquisition Regulations (AIDAR)

Appendix D: Direct AID Contracts with a U.S. Citizen or a U.S. Resident Alien for Personal Services Abroad

11. "General Provisions"

20. Use of Pouch Facilities (July 1993)

AIDAR, Appendix D, 11. "General Provisions", 20. Use of Pouch...

20. USE OF POUCH FACILITIES (JULY 1993)

(a) Use of diplomatic pouch is controlled by the Department of State.

The Department of State has authorized the use of pouch facilities for AID contractors and their employees as a general policy, as detailed in paragraphs (a)(1) through (a)(6) of this provision. However, the final decision regarding use of pouch facilities rests with the Embassy or AID Mission. In consideration of the use of pouch facilities as hereinafter stated, the Contractor agrees to indemnify and hold harmless the Department of State and AID for loss or damage occurring in pouch transmission.

(1) Contractors are authorized use of the pouch for transmission and receipt of up to a maximum of 0.90 kilogram/2 pounds per shipment of correspondence and documents needed in the administration of foreign assistance programs.

(2) U.S. citizen contractors are authorized use of the pouch for personal mail up to a maximum of 0.45 kilogram/one pound per shipment (but see (a)(3) below). Non-U.S. citizen Contractors are not permitted use of the pouch for personal mail except to the extent that such use may be authorized by the Chief of Mission.

(3) Merchandise, parcels, magazines, or newspapers are not considered to be personal mail for purposes of this clause, and are not authorized to be sent or received by pouch.

(4) Official and personal mail under paragraphs (a)(1) and (2) of this provision, sent by pouch, should be addressed as follows:

Individual's Name (C),
Agency for International Development
Washington, D.C. 20523-0001.

(5) Mail sent via the diplomatic pouch may not be in violation of U.S. Postal laws and may not contain material ineligible for pouch transmission.

(6) Use of military postal facilities (APO/FPO) is authorized to U.S. contractors on the same basis as approved for direct-hire employees at the AID Mission. Posts having access to APO/FPO facilities and using such for diplomatic pouch dispatch, may, however, accept official and personal mail for the pouch provided, of course, adequate postage is affixed when onward transmission (mail to other than AID/W) through U.S. postal channels is required.

(b) The contractor shall be responsible for compliance with these guidelines and limitations on use of pouch facilities.

(c) Specific additional guidance on use of pouch facilities in accordance with this clause is available from the Post Communication Center at the Embassy or AID Mission.

AIDAR_D.1120

AID Acquisition Regulations (AIDAR)
Appendix D: Direct AID Contracts with a U.S. Citizen or a U.S. Resident Alien for Personal Services Abroad

11. "General Provisions"

21. Biographical Data (June 1990)

AIDAR, Appendix D, 11. "General Provisions", 21. Biographical Data

21. BIOGRAPHICAL DATA (JUNE 1990)

(a) The contractor agrees to furnish biographical information to the Contracting Officer, on forms (SF 171 and 171As) provided for that purpose.

(b) Emergency locator information. The contractor agrees to provide the following information to the Mission Administrative Officer on arrival in the host country regarding himself/herself and dependents:

(1) Contractor's full name, home address, and telephone number including any after-hours emergency number(s).

(2) The name and number of the contract, and whether the individual is the contractor or the contractor's dependent.

(3) The name, address, and home and office telephone number(s) of each individual's next of kin.

(4) Any special instructions pertaining to emergency situations such as power of attorney designees or alternate contact persons.

AIDAR_D.1121

AID Acquisition Regulations (AIDAR)

Appendix D: Direct AID Contracts with a U.S. Citizen or a U.S. Resident Alien for Personal Services Abroad

11. "General Provisions"

22. Resident Hire Personal Services Contractor (June 1990)

AIDAR, App. D, 11. "Gen. Prov.", 22. Resident Hire Per. Serv. Cont.

22. RESIDENT HIRE PERSONAL SERVICES CONTRACTOR (JUNE 1990)

A contractor meeting the definition of a Resident Hire PSC contained in Section 11, General Provisions, Clause 1, Definitions, shall not be eligible for any fringe benefits (except contributions for FICA, health insurance and life insurance), allowances, or differentials, including but not limited to travel and transportation, medical, orientation, home leave, etc., unless such individual can demonstrate to the satisfaction of the Contracting Officer that he/she has received similar benefits/allowances from their immediately previous employer in the Cooperating Country, or the Mission Director determines that payment of such benefits would be consistent with the Mission's policy and practice and would be in the best interests of the U.S. Government.

AIDAR_D.1122

AID Acquisition Regulations (AIDAR)

Appendix D: Direct AID Contracts with a U.S. Citizen or a U.S. Resident Alien for Personal Services Abroad

11. "General Provisions"

23. Orientation and Language Training (Long Tour) (July 1993)

AIDAR, Appendix D, 11. "General Provisions", 23. Orien. & Lang. Train.

23. ORIENTATION AND LANGUAGE TRAINING (LONG TOUR) (JULY 1993)

(a) Except as set forth in paragraph (b)(4) below, the Contractor shall receive a maximum of 2 weeks AID orientation before travel overseas. The dates of orientation shall be selected by the Contractor and approved by the Contracting Officer from the orientation schedule provided by AID.

(b) As either set forth in the Contract Schedule, or provided in writing by the Contracting Officer, the following may be authorized taking into consideration specific job requirements, contractor's prior overseas experience, or unusual circumstances, in connection with orientation of individual Contractors:

- (1) Modified orientation,
- (2) Language training,
- (3) Orientation for Contractor's dependents at contract expense.
- (4) Waiver of orientation for individual contractor.

(c) Transportation costs and travel allowances not to exceed one round trip from the Contractor's residence to place of orientation and return will be reimbursed, pursuant to Clause 10 of the General Provisions, entitled "Travel and Transportation Expenses," if the orientation is more than 80 kilometers/50 miles from the contractor's residence. Allowable salary costs during the period of orientation are also reimbursable.

AIDAR_D.1123

AID Acquisition Regulations (AIDAR)
Appendix D: Direct AID Contracts with a U.S. Citizen or a U.S. Resident Alien for Personal Services Abroad

11. "General Provisions"

24. Conditions for Contracting Prior to Receipt of Security Clearance (July 1993)
AIDAR, Appen. D, 11. "Gen. Prov.", 24. Conditions for Contracting...

24. CONDITIONS FOR CONTRACTING PRIOR TO RECEIPT OF SECURITY CLEARANCE (JULY 1993)

(a) Resident Hire U.S. PSC. The contractor may commence work prior to the completion of the security clearance. However, until such time as clearance is received, the contractor shall have no access to classified or administratively controlled materials. Further, failure to obtain clearance will constitute cause for contract termination in accordance with paragraph (a)(2) of General Provision 16 of this contract.

(b) U.S. PSC - Non-Resident Hire. The contractor may elect to commence travel to post immediately to begin work prior to completion of the security clearance. However, until such time as security clearance is received, the contractor shall:

(1) Have no access to classified or administratively controlled materials;

(2) Be authorized to travel to post himself/herself only; and

(3) Be authorized no entitlements other than those normally authorized for short term (less than a year) employees at post. Even if the contract is for one year or more, dependents may not accompany contractor unless at his/her expense, and transportation/storage of household/personal effects and motor vehicle will not be financed by AID prior to the receipt of the security clearance. Upon receipt of clearance, the Contracting Officer will authorize reimbursement of any such costs borne at contractor's expense prior to clearance provided they are reasonable, allocable and allowable. If appropriate given the length of time remaining, the Contracting Officer will authorize dependent travel and shipment/storage of motor vehicle and effects. Allowances which would not be provided to short term employees will be authorized after clearance is received provided that the contractor is otherwise entitled to such benefits. Failure to obtain the security clearance will constitute cause for contract termination in accordance with paragraph (a)(2) of General Provision 16 of this contract.

AIDAR_D.1124

AID Acquisition Regulations (AIDAR)
Appendix D: Direct AID Contracts with a U.S. Citizen or a U.S. Resident Alien for Personal Services Abroad

11. "General Provisions"

25. Medical Evacuation (MEDEVAC) Services (July 1993)

AIDAR, Appendix D, 11. "General Provisions", 25. (MEDEVAC)

25. MEDICAL EVACUATION (MEDEVAC) SERVICES (JULY 1993)

(a) The contractor agrees to obtain medevac service coverage for himself/herself and his/her authorized dependents while performing personal services abroad. Coverage shall be obtained pursuant to the terms of the contract between AID and AID's medevac service provider unless exempted in accordance with paragraph (b).

(b) The following are exempted from the requirements in paragraph (a):

(i) Contractors and their dependents with a health insurance program that includes sufficient medevac coverage as approved by the Contractor Officer.

(ii) Contractors and their dependents located at Missions where the Mission Director makes a written determination to waive the requirement for such coverage based on findings that the quality of local medical services or other circumstances obviate the need for such coverage.

(c) Information on the current medevac service provider, including application procedures, is available from the Contracting Officer.

AIDAR_D.1125

AID Acquisition Regulations (AIDAR)

Appendix D: Direct AID Contracts with a U.S. Citizen or a U.S. Resident Alien for Personal Services Abroad

12. FAR Clauses to be incorporated by reference in Personal Services Contracts

AIDAR, Appendix D, 12. FAR Clause...in Personal Services Contracts

12. FAR Clauses to be incorporated by reference in Personal Services Contracts.

APPENDIX D

Section 12

FAR Clauses

The following FAR Clauses are always to be used along with the General Provisions. They are required in full text.

1. Officials Not to Benefit 52.203-1
2. Covenant Against Contingent Fees 52.203-5
3. Disputes 52.233-1 (Alternate 1)
4. Preference for U.S. Flag Air Carriers 52.247-63

The following FAR Clauses are to be used along with the General Provisions, and when appropriate, be incorporated in each personal services contract by reference:

1. Inspection 52.246-5
2. Examination of Records by Comptroller General 52.215-1
3. Audit - Negotiation 52.215-2
4. Privacy Act Notification 52.224-1
5. Privacy Act 52.224-2
6. Taxes - Foreign Cost Reimbursement Contracts 52.229-8
7. Interest 52.232-17
8. Assignment of Claims 52.232-23
9. Protection of Government Buildings, Equipment, and Vegetation 52.237-2
10. Notice of Intent to Disallow Costs 52.242-1
11. Limitation of Cost 52.232-20

12. Limitation of Funds 52.232-22
13. Limitation of Liability - Services 52.246-25
14. Anti-Kickback Procedures 52.203-7
15. Certification and Disclosure Regarding Payment to Influence Certain Federal Transactions 52.203-12

AIDAR_D.12

AID Acquisition Regulations (AIDAR)
Appendix E: Reserved
AIDAR, Appendix E: RESERVED

APPENDIX E--[RESERVED]

AIDAR_E

AID Acquisition Regulations (AIDAR)
Appendix F: Use of Collaborative Assistance Method for Title XII Activities
1. Introduction
AIDAR, Appendix F, 1. Introduction

APPENDIX F--USE OF COLLABORATIVE ASSISTANCE METHOD
FOR TITLE XII ACTIVITIES

1. Introduction

This Appendix provides a detailed description of the collaborative assistance method of contracting. This is a specialized contracting system which may be used for contracting with educational institutions eligible under, and for activities authorized under, Title XII of the Foreign Assistance Act of 1961, as amended, under the circumstances described in AIDAR 715.613-71."

AIDAR_F.1

AID Acquisition Regulations (AIDAR)
Appendix F: Use of Collaborative Assistance Method for Title XII Activities
2. Purpose
AIDAR, Appendix F, 2. Purpose

2. Purpose

The collaborative assistance system is designed to:

- (a) Increase the joint implementation authority and responsibility of the contractor and the LDC;
- (b) Encourage more effective collaboration between all participating parties (AID, host country, and contractor) at important stages, including the design stage of a technical assistance project."

AIDAR_F.2

AID Acquisition Regulations (AIDAR)

Appendix F: Use of Collaborative Assistance Method for Title XII Activities

3. Policy

AIDAR, Appendix F, 3. Policy

3. Policy

The collaborative assistance approach represents an alternative method for long-term technical assistance which involves professional collaboration with eligible Title XII institutions and LDC counterparts for a problem-solving type activity to develop new institutional forms and capabilities, to devise operating systems and policies, and to conduct joint research and development -- including training. In such an activity, the difficulty in defining, in advance, precise and objectively verifiable contractor inputs and long-term project content as a basis for payment usually requires a flexible approach to project design, contracting, and project implementation. Such flexibility is also essential to the collaborative style which is responsive to LDC desires in problem areas of great complexity and varying uncertainty. Other types of technical assistance, which are usually shorter in term are amenable to more precise definition in advance, or involve closely defined and relatively standardized services, or are otherwise more analogous to commodity resource transfers, may be suitable for other contracting methods, e.g., certain forms of institution building, on-the-job training, resource surveys, etc. The collaborative assistance method is an approved method for providing technical assistance when used in accordance with the circumstances outlined above, and with the guidelines set forth in paragraph 4, below.

AIDAR_F.3

AID Acquisition Regulations (AIDAR)

Appendix F: Use of Collaborative Assistance Method for Title XII Activities

4. Implementation Procedures

AIDAR, Appendix F, 4. Implementation Procedures

4. Implementation Procedures

(a) Introduction. This paragraph 4, provides background information, guidelines and procedures to effect the implementation of the policy set forth in paragraph 3 of this section.

(b) Conditions and practices. In order for this policy to work effectively even when the proposed activity fits the criteria described under Policy, there must also be:

(1) Acceptance of the notion that the host country, in consultation with the contractor, is in the best position to make tactical, day-to-day decisions on project inputs within agreed-upon limitations and output expectations;

(2) Sufficient trust and respect between the Agency and the contractor to allow this flexible implementation authority;

(3) A direct-hire project monitor with appropriate background to be knowledgeable of progress and to assist in an advisory and facilitative capacity, both during and between periodic reviews. In addition, the following important conditions must be met:

(I) Adequate pre-project communication between, and identification of assistance required by, the host government and USAID;

(ii) Full joint planning and improved project design ("Joint" as used herein refers to the primary parties, i.e., the collaborating institutions, as well as the host government and USAID. In some instances, it

can also include other donors.);

(iii) Careful contractor selection, i.e., matching of the contractor's technical and managerial capabilities to the anticipated requirements of the overseas activity;

(iv) Establishment of relationships between host country, AID and contractor staff to include host country leadership, flexible implementation authority, and effective management by the contractor;

(v) Improved joint project evaluation, feedback, and replanning; and

(vi) Simplified administrative procedures and greater reliance on in-country logistical support.

(c) Project Stages and Contractor Involvement. In the long-term technical assistance projects as described above, there are four discrete but sometimes overlapping decision stages which take place--with the principal contractor usually involved in the last three.

(1) Problem analysis and project identification. After the host government has indicated a desire for U.S. collaboration on a particular problem and the AID field mission has determined that the proposed activity is consistent with its program goals and priorities, considerable effort is usually necessary to refine further the project purpose and type of assistance required and provide a basis for contractor selection. This is a crucial step and is focused on results sought -- on what the prospective contractor is expected to produce in relation to resources to be used and to project purpose. It should result in a clear understanding of what the LDC wants, and an overall plan which includes agreement on specific objectives or outputs, acceptable types of activities and inputs and an initial budget -- resulting in project documentation. At this step, AID makes decisions it cannot delegate on what it will support and at what cost. If needed to supplement its direct-hire expertise, AID can use outside consultants for analysis and advice but retains the ultimate decision for itself in collaboration with, but independent of, the requesting host government. (Normally, the proposed contractor for project definition and subsequent implementation should not have been involved in the problem analysis and project identification stage as a consultant to either the host country government, host institution, or USAID. If a potential contractor has been so involved, particular care must be taken to prevent actual or apparent organizational conflicts of interest in the procurement that follows. This could require at a minimum, a careful assessment and complete documentation of reasons for selection.)

Normally, there will need to be some mutual interaction between the overall planning stage outlined here and the detailed planning and design work which follows in the next phase. There will usually be some overlap, with preliminary decisions in this stage providing a basis for selection of implementing agents for stage (2) which in turn proceeds through some preliminary planning to guide completion of stage (1) as a basis for long-term contracting.

(2) Project definition. At this stage, having selected the implementing agent, the U.S. and LDC organizations which will be collaborating in carrying out the project are encouraged to work out, to their mutual satisfaction, the particulars of what to do and how to do it (i.e., detailed project design) within the context of LDC leadership and responsibility and the general agreements and budget reached in stage (1). The emphasis here is on the technical approach to be utilized and the scheduling and management of project inputs. This may involve a short-term reconnaissance and/or an extensive period of detailed joint planning and feeling out of what is feasible during a preliminary operating phase of the project, possibly lasting as much as a year or more. This stage recognizes the importance, for the problem-solving or ground breaking types of technical assistance, of involving the U.S. and LDC implementing organizations together as soon as the detailed design work begins. AID's role here is to facilitate, not direct, the joint planning, assure consistency with prior agreements or concur in changes, affirm that the implementing parties have agreed on a reasonable project design, and prepare or

cause to be prepared the documentation required for stage (3), including any amendments that might be required to the project documentation. If and when a decision is made by the host government and AID to proceed into the operating phase with the same contractor, the U.S. intermediary should be treated as a cooperating partner in the negotiation of the subsequent long-term operating agreement(s) with the host government, host institution and AID.

(3) Implementation. The results of the approach outlined in the stage above should include, in addition to a better understanding and more meaningful commitment by all parties, the following specific products:

(i) A jointly developed life-of-project design which reflects the commitment of all parties and includes clear statements of purpose, principal outputs, eligible types of activity and expenditure limits, critical assumptions, and major progress indicators;

(ii) A work plan and input schedule for the first two years or at least as long as the expenditure period for the next obligation of project funds;

(iii) Provisions for any administrative support, special services or other inputs by the host country, contractor, and/or AID; and

(iv) A plan for periodic joint evaluation and review or progress and subsequent work plans, normally annually, with the participation of all parties.

Appropriate elements of these agreements and understandings are now embodied in a contract for project implementation, as described in paragraph (d)(3)(I) of the section on Contracting Implications. This contract allows the U.S. intermediary to apply its judgment, reflecting close collaboration with its LDC colleagues, in adjusting the flow of AID-financed inputs and in making other operational decisions with a minimum of requirements for prior AID approvals or contract amendments as long as the contractor stays within the bounds of the approved overall plan and budget. In this phase, AID will give technical assistance contractors the authority and responsibility for using their specialized expertise to the fullest extent in the scheduling and managing of project inputs.

(4) Monitoring, joint evaluation and replanning. With increased flexibility and responsibility for implementation placed with the technical assistance contractor, the host government, and/or institutional collaborator, improved and timely progress reporting and periodic, joint, and structured reviews of results and evolving plans are imperative as a basis for monitoring and evaluating contractor performance, revalidating or adjusting project design, and for determining future funding levels and commitments.

Both the contractor's annual report and the joint review should be structured within the framework of purpose, outputs, performance indicators, etc., originally established in the project identification phase -- as modified by detailed project design -- and reflected in the Project Agreement and other pertinent documentation. The field review will normally serve as the occasion for discussing changes in or additions to previously agreed-to work plans as well as proposing changes in purpose, types of activities authorized and budgets which require contract amendment. Obviously, the appropriate host government, host institution, and senior contractor officials should be thoroughly involved in the process, which will have to be adapted to the conditions within specific projects and countries. An important USAID responsibility is to assure that there is appropriate host country participation in developing and improving project plans prior to new obligations of funds. The special requirements and responsibilities of the various parties shall also be reflected in the project agreement and contract terms and in guidelines on the content of annual reports, evaluation procedures, etc.

Standard checking on services actually delivered as a basis for reimbursement will be continued including appropriate audit of expenditures.

(d) Contracting implications. The principal elements of change in present contracting practices, as detailed below, are earlier selection and involvement of the prime contractor, contracting by major stages of project

design and operations, minimizing the need for precontract negotiations and contract amendments and AID approvals, and providing technical assistance contractors with the authority and responsibility needed to manage implementation within the approved program bounds.

(1) Selection. The early involvement of the contractor in the definition stage of a long-term technical assistance project, after AID decides what it wants to undertake in stage (1), does not alter the Agency's responsibility to select its contractors carefully and in full compliance with appropriate contracting regulations and selection procedures. What is required here is that contractor selection be carried out at an earlier stage than has sometimes been the Agency practice in the past or with other types of contracts and in anticipation that the contractor, assuming adequate performance, will participate in all subsequent phases until final completion.

(2) Contracting stages. In contracting, the initial design stage should be separated from the longer term implementation stage without any AID commitment to undertake the second until it has exercised its independent judgment based on the product of the first plus any outside expert appraisal it and the host country want to use.

The long-term implementation stage itself may be further subdivided into contract periods which permit time between predetermined events for analysis, determination of new project requirements, and evaluation of performance prior to initiating the next phase by contract amendment/extension. If, for any reason, such an examination does not appear to warrant project continuation, then termination of the project and/or contract would be the next step.

(3) Flexible implementation authority. While good project design will eliminate or diminish many operational problems, the very nature of long-term technical assistance requires flexible implementation within agreed purposes, ultimate outputs, types of activity and available financing. With these key variables for AID management control established, contracts should be written so as to minimize the need for amendments and AID approval of changes in input particulars. This can be facilitated, both for the USAID, host country, institution, and the contractor by:

(i) Retention of operational plan in contract and removal of work plan. The contract narrative will contain the life-of the-project Operational Plan, consistent with the project design as developed in stage (2) and reflected in the project documentation (and subsequent amendments thereto). The Operational Plan includes a statement of the purpose to be achieved, the outputs to be produced by the contractor and the types of activities to be undertaken, the more significant indicators of progress, a general description of the type of inputs that are authorized and intended to be provided during the life of the project, and the overall budget.

In order to allow adjustments at the implementation level without going through the contract amendment process, the detailed but short-term work plan containing specific descriptions and scheduling of all inputs such as numbers and types of staff, participants, commodities, etc., and specific activities, will not be a part of the contract. It is a working document to be modified in the field when the situation demands. The latest version will be available as a supporting document to justify proposed new obligation levels. Normally, the work plan and derived budget will cover a rolling two year period, i.e., each year another yearly increment is added after review and approval.

(ii) Budget flexibility. To support this implementation flexibility, contract budget or fiscal controls will be shifted from fixed line items for each input category to program categories, permitting the technical assistance contractor to adjust amounts and timing to achieve previously approved types of activity. This same type of flexibility should apply to any local currency supplied for project operations and/or contractor staff support. While an essential corollary to eliminating the work plan from the contract, this is not a unique procedure under cost reimbursement type contracts when the contractor has demonstrated adequate management capability.

(iii) Negotiation of advance understandings. To permit university and international research center contractors to manage their activities in accordance with their own policies and procedures and thereby sharpen their management responsibility while achieving substantial savings in time and reduced documentation, AID may negotiate advance understandings with its technical assistance contractors on dollar costs and administrative procedures that would be included by reference in its subsequent contracts. Upon receipt of a request from the contractor that their policies be reviewed and approved for usage in their contract in lieu of the standard terms and conditions, OP/PS/OCC, AID/W will initiate negotiations of such policies in an expeditious manner. The approved policies will be used in all relevant relations involving the Agency and respective contractors in lieu of traditional contract standard provisions, whenever this may be appropriate. This does not apply to local currency costs and host government procedures which must be negotiated in each case.

The purpose of the practices listed above is not only to give a qualified contractor the authority to adjust the composition and timing of inputs but to assign to it clear responsibility for managing such resources, as the evolving circumstances require, to achieve the agreed-upon outputs on a cost efficient basis. It should also reduce the delay and paperwork involved in frequent but minor contract amendments, and approvals. For the agency as a whole, both in the Mission and in AID/W, these have involved a large workload and cost.

(e) Role of AID. Nothing in this appendix is intended to delegate, diminish or otherwise modify AID's final responsibility for the prudent management of public funds and its own programs. Rather, in withdrawing from the day-to-day involvement in and responsibility for the management of adjustment of the flow of inputs during the implementation, the best use of limited agency staff and time can be devoted to protecting the public interest in gaining maximum results from the funds appropriated for technical assistance by:

- (1) Seeking optimum identification in terms of LDC priorities and U.S. capabilities;
- (2) Mobilizing and selecting the best U.S. professional talent to design and carry out the project;
- (3) Monitoring what is happening to assure adequacy of processes, get a feel of results, assure actual delivery of inputs being financed;
- (4) Assuring that the attention of AID's implementation agents and LDC colleagues stay well focused on project purpose and results to be achieved (outputs) and the relation to these of what is being done and actual results;
- (5) Providing intermediaries adequate authority and responsibility to adjust inputs promptly and sensitively to the evolving project situations.

Attention to these considerations, and to achievements of the pre-implementation conditions prescribed above, should greatly increase the chances for successful project completion and impact on a cost effective basis, which is the final measurement of prudent management.

AIDAR_F.4

AID Acquisition Regulations (AIDAR)

Appendix F: Use of Collaborative Assistance Method for Title XII Activities

Attachment: Guidelines for Requests for Expressions of Interests

AIDAR, App. F, Attach.: Guidelines Requesting Expressions of Interests

Attachment to Appendix F:
Guidelines for Requests for
Expressions of Interest

A. Length and Level of Detail

A Request for Expression of Interest (REI) should include more than just a short letter expressing interest, but should not be in the detail of a technical proposal (RFTP). The REI is not the only source of information that can or should be used for selection, but at least a minimum level of information should be contained in each document. A ten page paper that responds to the selection criteria included in every REI should be sufficient for evaluation purposes. The selection criteria should specify the technical inputs required for successful execution of the project and normally require a response in three general areas:

1. A description of the institution's capability to address the problem described in the REI.
2. Any related experience, whether in the country or region or in the problem area.
3. A demonstrable commitment of the institution to support the project.

The responses should address the capability, experience, and commitment to the particular project.

B. Specific Personnel Information

The response should specify within the areas set out in the selection criteria the following planning and personnel factors.

1. The design team plan and the scope of work for each member.
2. A list of candidates for the design team and their credentials.
3. A list of possible candidates for long-term assignment to the project. (Since there has been no project design, the specific technical assistance slots and technical responsibilities are vague. But it is expected that at least half of the personnel needs can be estimated early in the project. The institution should make its best guess for the team and present to the Agency the persons or types of persons with whom they are likely to contract.)

C. Multiple Institution Submissions

Joint effort on the part of several institutions is encouraged when appropriate. A single institution may submit an expression of interest for part of the project without knowledge of other collaborators or it may submit information in response to A and B of this attachment as part of a suggested collection of institutions. In either case, a proposed plan for cooperation is necessary.

However, such joint efforts must specify the division of responsibilities for the planning and personnel factors indicated in B of this attachment. Often AID will identify the need for cooperation and suggest such an effort in the REI. Even if AID does not suggest collaboration, joint efforts with a description of the cooperation would be an appropriate way to respond to an REI.

AIDAR_F.A

AID Acquisition Regulations (AIDAR)

Appendix G: Approval Procedures for Contractor Salaries

1. Purpose

AIDAR, App. G, 1. Purpose

APPENDIX G--APPROVAL PROCEDURES FOR CONTRACTOR SALARIES

1. Purpose

This Appendix provides guidelines for use when considering contractor salaries, and procedures for approval of contractor salaries exceeding the maximum salary level for Senior Executive Service level ES-6.

AIDAR_G.1

AID Acquisition Regulations (AIDAR)

Appendix G: Approval Procedures for Contractor Salaries

2. Procedures

AIDAR, App. G, 2. Procedures

2. Procedures

(a) General

Personnel compensation negotiated and payable under USAID contracts should be at the minimum levels necessary to attract needed technical services in a competitive market. Rates should be determined by the market place where the types of services are obtained. Using such criteria, very few salaries should approach or exceed the ES-6 level. Actual discussions with contractors concerning salaries should be held only by persons authorized to negotiate and execute contracts (see AIDAR Appendix A).

(b) In accordance with 731.205-6, 731-371(b) and section 731.772, approval of contractors salaries exceeding the maximum for Executive Service Level 6 are to be based upon a Memorandum from the technical office through the cognizant Assistant Administrator or Mission Director and the Contracting Officer to the Procurement Executive for approval. The reasonableness of proposed salaries exceeding the ES-6 level must be evaluated by the appropriate technical office in terms of the technical competence required, scope of supervisory responsibilities involved, and the relationship of the proposed salary level to the individual's customary salary level for similar work. The Contracting Officer shall clear the Memorandum if he/she concurs with the action. If he/she does not concur, a memorandum explaining the reasons shall be attached to the approval request and forwarded with it to the Procurement Executive. Increases in the ES-6 salary levels are not, and shall not be by themselves, the basis for upward salary increases of institutional contractor employees. Proposals for revisions should be considered normally when contracts are renewed or amended, and must be fully reviewed and negotiated to ensure that increases are not automatically granted without corresponding increases in the quality or quantity of services rendered. It is the Contracting Officer's responsibility to scrutinize increases as a matter of good business practice whenever USAID negotiations deal with any salaries payable under contracts. Salaries below the ES-6 maximum level should also be fully justified, even though formal approval procedures may not be involved. The justification should be a part of the negotiation memorandum and placed in the contract file.

Date

Michael D. Sherwin
Procurement Executive

AIDAR_G.2

AID Acquisition Regulations (AIDAR)
Appendix H: Response to Audit Recommendations
1. Purpose
AIDAR, App. H, 1. Purpose

APPENDIX H -- RESPONSE TO AUDIT RECOMMENDATIONS

1. Purpose

This appendix establishes consolidated procedures for responding to post-award audit reports. The procedures in this appendix are not applicable to pre-contract audit surveys.1/

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1/Contracting officers often request audit advice and assistance in evaluating contractor's proposals prior to award. FAR 15.808 (b)<\A> requires the contracting officer to provide a copy of the memorandum of negotiation to the auditor (the cognizant RIG) when a pre-award survey has been performed, to inform the auditor of the disposition and usefulness of the pre-award survey. Provision of a copy of the memorandum of negotiation to the cognizant RIG, pursuant to FAR 15.808 (b), constitutes response to a pre-award audit survey.

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AIDAR_H.1

AID Acquisition Regulations (AIDAR)
Appendix H: Response to Audit Recommendations
2. Applicability
AIDAR, App. H, 2. Applicability

2. Applicability

The procedures set forth in this appendix apply to all audit recommendations concerning costs questioned under AID-direct contracts whether the recommendation is assigned to the Office of Procurement (FA/OP, hereinafter referred to as OP) or to a Mission or Area Contracting Officer.

AIDAR_H.2

AID Acquisition Regulations (AIDAR)
Appendix H: Response to Audit Recommendations
3. The Role of the Inspector General
AIDAR, App. H, 3. The Role of the Inspector General

3. The Role of the Inspector General

(a) Legislative and procedural requirements. Public Law 96-304, July 8, 1980 (Section 305) requires that audits involving questioned costs be resolved within six months. Further, OMB Circular A-73, Audit of Federal Operations and Programs, requires that each agency establish policies and procedures for prompt and proper resolution of audit recommendations, and establish standards for such policies and procedures. The Administrator has approved procedures for audit follow-up and resolution, as recommended by the Inspector General (IG).

(b) IG responsibilities.

(1) The IG and Regional Inspectors General (RIG) are responsible for tracking and following up on audit recommendations to insure prompt and proper resolutions, and for reporting on monetary recoveries resulting from audit reports. Following receipt of the contracting officer's disposition of the substance of an audit recommendation, the IG and RIG are responsible for determining whether or not to officially close the recommendations.

(2) If the cognizant RIG has not received satisfactory evidence of resolution of an audit recommendation within four months of issuance, the RIG will request a status report from the office assigned action responsibility (see also paragraph 5b(3) of this section). If no evidence of satisfactory resolution is received by six months, the IG follows up directly with the cognizant Assistant Administrator. The IG may request the Deputy Administrator to take action on any recommendation open for more than six months.

(3) If the cognizant RIG does not agree to an action office's disposition of an audit recommendation, the RIG will first attempt to resolve the issue with the action office. If this is unsuccessful, the issue will be referred to the IG, who will attempt resolution with the cognizant office head or Assistant Administrator. If the issue cannot be resolved at this level, it can then be referred by IG to the Deputy Administrator for decision. (See also paragraph 4.b., concerning the role of the contracting officer.)

(4) If the cognizant RIG questions a contracting officer's decision not to seek recovery of audit questioned cost, the RIG may submit the issue to the cognizant Regional Legal Advisor, or to the General Counsel's Office (See also paragraph 4.b., concerning the role of the contracting officer.)

AIDAR_H.3

AID Acquisition Regulations (AIDAR)

Appendix H: Response to Audit Recommendations

4. The Role of the Contracting Officer

AIDAR, App. H, 4. The Role of the Contracting Officer

4. The Role of the Contracting Officer

(a) Pursuant to the Contract Disputes Act of 1978 (41 U.S.C. 601-613), as implemented in FAR Part 33, and as provided in FAR 1.6 and subpart 701.6 of the AIDAR, contracting officers have the authority to negotiate and enter into settlements with contractors of costs questioned under audit reports. [[FAR01_06]] (Press <F8> to HYPERLINK) With this authority goes the responsibility for insuring that such settlements are properly justified and documented, and promptly executed.

(b) A negotiated settlement of questioned costs, executed by the contractor and the contracting officer; or a contracting officer's final decision pursuant to the disputes clause (in the event questioned costs are not settled by negotiated agreement), are final, subject only to a contractor's appeal, either under the provisions of the Disputes Act, or to the Courts. Regardless of internal controls, such as IG or RIG's right to maintain a

recommendation as open (see paragraph 3.b(3) of this section), or to question a contracting officer's decision regarding questioned costs (see paragraph 3.b(4) of this section), the contracting officer's decision as between the Government and the contractor is final, subject to established methods of contractor appeal. Authority to negotiate settlements, or make final decisions on questioned costs rests with duly delegated contracting officers alone.

AIDAR_H.4

AID Acquisition Regulations (AIDAR)
Appendix H: Response to Audit Recommendations
5. Procedures
AIDAR, App. H, 5. Procedures

5. Procedures

In order to insure that resolutions of audit recommendations are properly justified and documented, the following procedures are established:

(a) General.

(1) Copies of all correspondence concerning resolution of an audit recommendation must be promptly sent to the cognizant RIG. All correspondence provided to the cognizant RIG should include the contractor's name, the contract number(s), and the audit report and recommendation number(s).

(2) In transmitting post-award audit reports to action offices, the RIG's attached memoranda shall identify each contract by its number and request an initial written response within 30 days. Under the Agency's audit recommendation follow-up system, the RIG's are following up to insure that action offices provide the 30-day responses. The IG is required to provide a copy of the initial response to several Congressional Committees. It is recognized that the initial response to audit reports questioning contract costs takes the form of a notification to the contractor by the contracting officer. The cognizant RIG will accept copies of the contracting officer's notification as the initial response to the audit report if:

-- The notification clearly indicates the title and/or number of the audit report.

-- The notification covers all the cost issues raised in the audit report. If it does not, the cognizant RIG requires a separate memorandum explaining the contracting officer's position on the remaining cost issues.

(3) Action offices have six months from receipt of an audit recommendation to resolve that recommendation; however, every effort will be made to resolve the recommendation within 120 days of its receipt. The contracting officer is responsible for keeping the cognizant RIG informed regarding the status of open audit recommendations in accordance with the procedures established in this appendix. If for any reason a recommendation cannot be resolved within the 120 day period, the contracting officer must so advise the cognizant RIG in writing, giving the reasons. This notification is to be provided as soon as possible, but in any event at least two weeks before expiration of the 120 day period. The contracting officer is also responsible for insuring that RIG's four-month follow-up (see paragraph 3.b(2) of this section) is promptly answered. For details on RIG's four and six month follow-up procedures, see paragraph 3.b(2), above.

(4) Responses to audit recommendations must be in writing, properly documented to clearly explain the action taken. When the contracting officer is satisfied that action on a recommendation has been completed, and the file properly documented, he or she should specifically request that the cognizant RIG consider the audit recommendation closed (see paragraph 6 of this section). The cognizant RIG should be requested to notify the contracting officer

promptly, in writing, if for any reason they are not prepared to officially close the recommendation, providing the reasons. Such notice should identify the contract number and refer to the contracting officer's last correspondence.

(b) Audit recommendations questioning costs under AID direct contracts. (These procedures are mandatory for audit recommendations assigned to FA/OP. It is recommended that they be applied, suitably adapted, to audit recommendations assigned to Missions which have been delegated contracting authority or to an area contracting officer).

(1) Documentation and control.

(a) All correspondence to and from the cognizant RIG shall specify the contract number, contractor's name, audit report number, and recommendation number, plus the amount of the questioned costs allowed or sustained as disallowed by the contracting officer.

(b) All incoming audits containing recommendations for action by FA/OP are to be immediately submitted to OP/PS/SUP. OP/PS/SUP will log in the audit report, recording the recommendation numbers and established due dates for all recommendations assigned to FA/OP. OP/PS/SUP will then transmit the audit, through the cognizant division chief, to the contracting officer with action responsibility.

(c) OP/PS/SUP will establish a tickler file of recommendations assigned to FA/OP, and will provide internal reminders and follow-ups.

(d) The contracting officer will keep OP/PS/SUP advised on the current status of open recommendations by providing OP/PS/SUP with a copy of official audit-related correspondence between the contracting officer and the RIG. Any necessary follow up by OP/PS/SUP to update data for preparation of reports shall be made through the cognizant division chief.

(2) Notification, negotiation, and settlement.

(a) Within two weeks after receipt of the audit report, the contracting officer shall formally notify the contractor by letter of the costs questioned. This notification shall require the contractor to respond to the contracting officer within 30 calendar days of receiving the letter. If warranted in the circumstances, invite the contractor to participate in negotiations to arrive at a mutually acceptable resolution of such costs. If no response has been received within 30 calendar days following the initial notification to the contractor of the questioned costs, issue a follow-up letter to the contractor requesting a response within 20 calendar days. In this follow-up the contractor should be advised that failure to respond within the specified period will result in the issuance of a final decision, pursuant to the disputes clause of the contract. If no response is received 20 calendar days after the follow-up letter, the contracting officer makes a final decision in accordance with FAR 33.011 regarding the questioned costs and issues, in writing, the appropriate contracting officer's decision as authorized in the Disputes clause of the contract. [[FAR33_00]] (Press <F8> to HYPERLINK) A copy of each letter, and any decision, shall be sent to the cognizant RIG (and, when the audit recommendation is assigned to FA/OP, to OP/PS/SUP).

(b) If the contractor responds to the contracting officer's letter identifying questioned costs, but an acceptable settlement is not achieved with a reasonable period of time (normally, 3 months from the date of initial notification), the contracting officer shall consider negotiations to have reached an impasse. The contracting officer shall then issue the appropriate decision as authorized in the disputes clause of the contract. A copy of this decision must be sent to the cognizant RIG (and, when the audit recommendation is assigned to FA/OP, to OP/PS/SUP). See also paragraph 5b(4) of this section regarding notification of the Controller.

(c) Normally, the contractor will respond to notification of questioned costs, and a mutually acceptable settlement can be negotiated. Such negotiated settlements must be documented for the contract file by the contracting officer. The written record must include:

(i) The initial audit findings, in detail, including all questioned costs, item by item.

(ii) The contracting officer's position, as reflected in the

notification to the contractor, on each of the audit findings, and questioned costs. If there are any differences between the contracting officer's position and that of the audit, these must be explained, showing exactly what the differences are, why, and how they were arrived at (including discussions, comments, and advise or clearances by other offices).

(iii) A final summary analysis showing the audit finding; the contracting officer's initial position; the contractor's response; subsequent positions of both parties, and final resolution. This must be in sufficient detail to permit any reasonable person to understand what the issues were, how much was involved, what items were adjusted (plus how much and why), what the final resolution was, and why.

A copy of this written record, clearly marked to indicate the audit report and recommendation number(s) must be sent to the cognizant RIG (and, when the audit recommendation is assigned to FA/OP, to OP/PS/SUP). See also paragraph 5b(4) of this section, regarding notification of the Controller.

(3) Collection. The preferred method of collection is through the issuance of a Bill for Collection, in accordance with Agency policy on cash management. Use of any other collection method must be coordinated in advance with FM/CMP. Bills for Collection are issued by the Controller in accordance with the procedures set forth in paragraph 5b(4) of this section.

(4) Notification of the controller.

(a) When a settlement has been negotiated, or a final decision has been issued pursuant to the disputes clause, it remains to collect the amount determined due to AID (sustained disallowances). The contracting officer is responsible for notifying the Controller to issue a Bill for Collection. A copy of this notification must be sent to the cognizant RIG, and to IG/PPP (and to OP/PS/SUP, for audits assigned to FA/OP).

(b) The notification to the Controller must contain the following information:

(I) Identification of the contract/task order/work order, providing the contract number, and the contractor's name and address;

(ii) The most recent accounting and appropriation data (PIO/T number and allotment number, etc.);

(iii) The amount due to AID;

(iv) The applicable audit and recommendation number(s):

and

(v) A copy of the contracting officer's negotiated settlement or final decision pursuant to the disputes clause (see paragraph 5b(2) of this section).

(c) The notification must request that a copy of the Bill for Collection be sent to the cognizant RIG, IG/PPP, and the contracting officer. The contracting officer is responsible for following up to insure that the Bill for Collection has been issued, and that a copy is in fact provided to the cognizant RIG and to IG/PPP, and is placed in the contract file.

(d) If the Contractor appeals the final decision pursuant to the disputes clause, the contracting officer must promptly notify the Controller to suspend collection pending resolution of the appeal. Suspension action by the Controller shall be taken in consultation with the Office of the General Counsel, pursuant to Delegation of Authority No. 80. The contracting officer is responsible for notifying the Controller regarding resolution of any appeal.

AIDAR_H.5

AID Acquisition Regulations (AIDAR)
Appendix H: Response to Audit Recommendations
6. Closing Audit Recommendations
AIDAR, App. H, 6. Closing Audit Recommendations

6. Closing Audit Recommendations

When the contracting officer has completed all action required by an audit recommendation in accordance with the procedures established in this appendix, he/she shall request that the recommendation be considered officially closed. The memorandum to the cognizant RIG shall specifically identify the audit report and recommendation number(s), summarize the actions taken, and explain why the recommendation(s) should be considered closed, providing sufficient evidence to permit the cognizant RIG to make a reasonable decision. For audit recommendations involving questioned costs which result in sustained disallowances, RIG and IG/PPP will accept a copy of the issued Bill for Collection as evidence to close a recommendation. A copy of the request to close a recommendation shall be sent to IG/PPP (and, for audits assigned to OP, to OP/PS/SUP).

AIDAR_H.6

AID Acquisition Regulations (AIDAR)
Appendix H: Response to Audit Recommendations
7. Clearances
AIDAR, App. H, 7. Clearances

7. Clearances

(a) General. All proposed post-award audit responses, whether to internal audits prepared by the IG, or to GAO audits, prepared by OP are to be cleared in accordance with DAA/M requirements in effect at the time the response is prepared. Responses prepared by Mission or Area contracting officers will be cleared in accordance with applicable Mission and Bureau procedures.

(b) Final decisions pursuant to the disputes clause. If settlement of an audit requires a final decision by the contracting officer in accordance with FAR 33.011, pursuant to the disputes clause, such decisions must be cleared by GC or the cognizant Mission or Regional Legal Advisor.
[[FAR33_00]] (Press <F8> to HYPERLINK)

AIDAR_H.7

AID Acquisition Regulations (AIDAR)
Appendix I: AID's Academic Publication Policy
1. Statement of Policy
AIDAR, App. I, 1. Statement of Policy

APPENDIX I--AID'S ACADEMIC PUBLICATION POLICY

1. Statement of Policy

This is a statement of AID policy on publication, or release to parties other than those specifically authorized, of unclassified materials gathered or developed under contracts with academic institutions.

AIDAR_I.1

AID Acquisition Regulations (AIDAR)
Appendix I: AID's Academic Publication Policy

2. Underlying Principles

AIDAR, App. I, 2. Underlying Principles

2. Underlying Principles

AID favors and encourages the publication of scholarly research as well as the maximum availability, distribution, and use of knowledge developed in its program.

This policy statement does not deal with material that is classified for security reasons. It does deal with considerations of national interest, not of sufficient gravity to warrant security classification, but serious enough to affect adversely the conduct of U.S. assistance programs. Consequently, in addition to the requirements of courtesy, propriety, and confidence which normally guide scholars in their work, there should also be consideration of the potential repercussions of publication on the successful execution of development and other cooperative programs in which the United States and foreign countries are involved.

AIDAR_I.2

AID Acquisition Regulations (AIDAR)

Appendix I: AID's Academic Publication Policy

3. Operational Definitions

AIDAR, App. I, 3. Operational Definitions

3. Operational Definitions

The Agency draws a distinction between two kinds of manuscripts which a scholar may wish to publish:

(a) A report which is prepared and delivered to the Agency under the terms of the contract (a "contract manuscript"); and

(b) An article or book based upon experience and information gained under an AID contract but not prepared or delivered under the contract (a "non-contract manuscript").

There are two kinds of actions, to be specified in the contract, which the Agency can take upon notification of a contractor's desire to publish:

(a) Comment only, under which AID and the foreign government involved may review the manuscript, and have their comments considered seriously by the contractor prior to publication; and

(b) Authorization for release, which AID may withhold if reconciliation between the national interest and the author's interest is impossible.

AIDAR_I.3

AID Acquisition Regulations (AIDAR)

Appendix I: AID's Academic Publication Policy

4. Policy Statements

AIDAR, App. I, 4. Policy Statements

4. Policy Statements

(a) AID, as a general rule, will not require an academic institution to obtain permission to publish the written work produced under a contract. It

will ask for the opportunity to review the manuscript for comment only, prior to publication.

In the case of a contract manuscript, AID reserves the right to disclaim endorsement of the opinions expressed; if it is a non-contract manuscript, AID reserves the right to dissociate itself from sponsorship or publication.

(b) On the other hand, AID may reserve the right of authorization for release in those exceptional cases where conditions exist making it reasonably foreseeable, in light of the contract's scope of work and the manner and place of performance, that the written work to be prepared and delivered under the contract may have adverse repercussions on the relations and programs of the United States. Where this right is reserved, it must be so specified in the contract. In determining where to reserve such right, AID will consider all relevant factors, including:

(1) The extent to which prompt and full performance of the contract will require access, facilitated by reason of the contract, to information not generally available to scholars;

(2) The extent to which the work involves matters of political concern to foreign countries, particularly where any substantial part of the work is to be performed therein;

(3) The extent to which, by reason of AID's close involvement and cooperation in the performance of the contract, the work product may be so identified with AID itself as to prevent effective disclaimer of AID endorsement thereof;

(4) The extent to which the objective of the contract is to provide advice to AID or to a foreign government of immediate operational significance in the conduct of the AID program or the implementation of governmental programs in the host country;

(5) The desires of the host country.

AIDAR_I.4

AID Acquisition Regulations (AIDAR)
Appendix I: AID's Academic Publication Policy
5. Implementation
AIDAR, App. I, 5. Implementation

5. Implementation

The successful implementation of this policy on publication rests on a thorough understanding and acceptance of these principles by AID and the prospective contractor. The actual publications provision for a particular contract, then, would be so worded as to reflect the agreement reached in the contract negotiations.

AID's concern with non-contract manuscripts is related to the identification of a manuscript with the U.S. Government. This concern will be modified by the passage of time following termination of the contract.

In the normal case of prepublication review for AID comment, the institution will submit a copy of the manuscript not later than the date of submission to the publisher. This gives the Agency time to comment if it is deemed appropriate. However, in the case of review for authorization, timely notification of AID's response will be given, consistent with the size of the manuscript and the number and location of the parties involved.

The Agency will make every effort to expedite this review procedure in accordance with the underlying principle described at the beginning of this policy statement.

AID Acquisition Regulations (AIDAR)

Appendix J: Direct AID Contracts with Cooperating Country Nationals and with Third Country Nationals for Personal Services Abroad

1. General

AIDAR, App. J, 1. General

APPENDIX J--DIRECT AID CONTRACTS WITH COOPERATING COUNTRY
NATIONALS AND WITH THIRD COUNTRY NATIONALS FOR PERSONAL SERVICES
ABROAD

1. General

(a) Purpose. This appendix sets forth the authority, policy, and procedures under which AID contracts with cooperating country nationals or third country nationals for personal services abroad.

(b) Definitions. For the purpose of this appendix:

(1) "Personal services contract" (PSC) means a contract that, by its express terms or as administered, makes the contractor personnel appear, in effect, Government employees (see FAR 37.104). [\[\[FAR37_01\]\]](#) (Press <F8> to HYPERLINK)

(2) "Employer-employee relationship" means an employment relationship under a service contract with an individual which occurs when, as a result of (i) the contract's terms or (ii) the manner of its administration during performance, the contractor is subject to the relatively continuous supervision and control of a Government officer or employee.

(3) "Non-personal services contract" means a contract under which the personnel rendering the services are not subject either by the contract's terms or by the manner of its administration, to the supervision and control usually prevailing in relationships between the Government and its employees.

(4) "Independent contractor relationship" means a contract relationship in which the contractor is not subject to the supervision and control prevailing in relationships between the Government and its employees. Under these relationships, the Government does not normally supervise the performance of the work, or the manner in which it is to be performed, control the days of the week or hours of the day in which it is to be performed, or the location of performance.

(5) "Contractor" means a cooperating country national or a third country national who has entered into a contract pursuant to this appendix.

(6) "Cooperating country" means the country in which the employing AID Mission is located.

(7) "Cooperating country national (CCN)" means an individual who is a cooperating country citizen or a non-cooperating country citizen lawfully admitted for permanent residence in the cooperating country.

(8) "Third Country National (TCN)" means an individual

(i) who is neither a citizen nor a permanent legal resident alien of the United States nor of the country to which assigned for duty, and

(ii) who is eligible for return to his/her home country or country of recruitment at U.S. Government expense [see Section 12, General Provision 9 paragraph (n)].

AIDAR_J.1

AID Acquisition Regulations (AIDAR)
Appendix J: Direct AID Contracts with Cooperating Country Nationals and with Third
Country Nationals for Personal Services Abroad

2. Legal Basis

AIDAR, App. J, 2. Legal Basis

2. Legal Basis.

(a) Section 635(b) of the Foreign Assistance Act of 1961, as amended, hereinafter referred to as the "FAA", provides the Agency's contracting authority.

(b) Section 636(a)(3) of the FAA authorizes the Agency to enter into personal services contracts with individuals for personal services abroad and provides further that such individuals ". . . shall not be regarded as employees of the U.S. Government for the purpose of any law administered by the Civil Service Commission." 1/

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1/ The Civil Service Commission is now the Federal Office of Personnel Management.

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AIDAR_J.2

AID Acquisition Regulations (AIDAR)
Appendix J: Direct AID Contracts with Cooperating Country Nationals and with Third
Country Nationals for Personal Services Abroad

3. Applicability

AIDAR, App. J, 3. Applicability

3. Applicability.

(a) This appendix applies to all personal services contracts with CCNs or TCNs to provide assistance abroad under Section 636(a)(3) of the FAA.

(b) This appendix does not apply to:

(1) Contracts for non-personal services with TCNs or CCNs; such contracts are covered by the basic text of the FAR and AIDAR.

(2) Personal services contracts with U.S. citizens or U.S. resident aliens for personal services abroad; such contracts are covered by Appendix D of this chapter.

(3) Appointments of experts and consultants as AID direct-hire employees; such appointments are covered by AID Handbook 25, Employment and Promotion.

AIDAR_J.3

AID Acquisition Regulations (AIDAR)
Appendix J: Direct AID Contracts with Cooperating Country Nationals and with Third
Country Nationals for Personal Services Abroad
4. Policy
AIDAR, App. J, 4. Policy

4. Policy.

(a) General. AID may finance, with either program or operating expense (OE) funds, the cost of personal services as part of the Agency's program of foreign assistance by entering into a direct contract with a CCN or a TCN for personal services abroad.

(1) Program funds. Under the authority of Section 636(h) of the FAA, program funds may be obligated for periods up to five years where necessary and appropriate to the accomplishment of the tasks involved.

(2) Operating expense funds. Pursuant to AID budget policy, OE funded salaries and other recurrent cost items may be forward funded for a period of up to three (3) months beyond the fiscal year in which these funds were obligated. Non-recurring cost items may be forward funded for periods not to exceed twenty-four (24) months where necessary and appropriate to accomplishment of the work.

(b) Limitations on Personal Services Contracts.

(1) Personal services contracts may only be used when adequate supervision is available.

(2) Personal services contracts may be used for commercial activities. Commercial activities provide a product or service which could be obtained from a commercial source. See Attachment A of OMB Circular A-76 for a representative list of such activities.

(3) Personal services contracts may be used for Governmental functions (defined by OMB Circular A-76 as functions so intimately related to the public interest as to mandate performance by Government employees) except:

(i) Entering into any agreement (e.g., loan, grant, contract) on behalf of the United States.

(ii) Making decisions involving governmental functions such as planning, budget, programming and personnel selection. Services will be limited to making recommendations with final decision-making authority reserved for authorized AID direct-hire employees.

(iii) Supervision of AID direct-hire U.S. citizen employees.

(iv) Services which involve security classified material.

(c) Conditions of Employment.

(1) General. For the purpose of any law administered by the U.S. Office of Personnel Management, AID PSC contractors are not to be regarded as employees of the U.S. Government, are not included under any retirement or pension program of the U.S. Government, and are not eligible for the Incentive Awards Program covered by Uniform State/AID/USIA regulations. Each AID Mission is expected to participate in the Joint Special Embassy Incentive Awards Program. The program is administered by a joint committee which establishes procedures for submission, review and approval of proposed awards. Other than these exceptions, CCNs and TCNs who are hired for work in a cooperating country under PSCs generally will be extended the same benefits and be subject to

the same restrictions as Foreign Service Nationals (FSNs) employed as direct-hires by the AID Mission.

(2) Compensation.

(I) It is AID's general policy (see AIDAR 722.170) that PSC compensation may not, without the approval of the Mission Director or Assistant Administrator, exceed the prevailing compensation paid to personnel performing comparable work in the cooperating country. Compensation for TCN or CCN personal services contractors set in accordance with the provisions in subparagraphs 4c(2)(ii)(A)(B) below satisfies this requirement.

(ii) In accordance with Section 408(a)(1) of the Foreign Service Act of 1980, a local compensation plan forms the basis for all compensation payments to FSNs which includes CCNs and TCNs. The plan is each post's official system of position classification and pay, consisting of the local salary schedule which includes salary rates, statements authorizing fringe benefit payments, and other pertinent facets of compensation for TCNs and CCNs, and the local position classification system as reflected in the Local Employee Position Classification Handbook (LEPCH) or equivalent in effect at the Mission. Compensation for PSCs will be in accordance with the local compensation plan, to the extent that it covers employees of the type or category being employed, unless the Mission Director determines otherwise. If the Mission Director determines that compensation in accordance with the local plan would be inappropriate in a particular instance, then compensation will be set in accordance with (in order of preference):

(A) Any other Mission policies on foreign national employee compensation; or

(B) Paragraphs 4(c)(d)(e)(g) and (h) of Appendix D. When compensation is set in accordance with this exception, the record shall be documented in writing with a justification prepared by the requesting office and approved by the Mission Director.

(iii) The earning of leave (annual and sick), allowances and differential (if applicable), salaries and all other related benefits can not be enumerated in this Appendix as they vary from Mission to Mission and are based upon the compensation plan for each.

(iv) Unless otherwise authorized, the currency in which compensation is paid to contractors shall be in accordance with the prevailing local compensation practice of the post.

(v) CCN and TCN contractors are eligible for allowances and differential on the same basis as direct-hire FSN employees under the post compensation plan.

(vi) An AID PSC who is a spouse of a current or retired U.S. Civil Service, U.S. Foreign Service, or U.S. military service member, and who is covered by their spouse's government health or life insurance policy, is ineligible for a contribution towards the costs of annual health and life insurance.

(vii) Retired CCNs and TCNs may be awarded personal services contracts without any reduction in or offset against their Government annuity.

(3) Incentive Awards.

(I) All Cooperating Country Nationals direct-hire and Personal Services Contractors (PSCs) and Third Country Nationals (PSCs) of the Foreign Affairs Community are eligible for the Joint Special Embassy Incentive Awards Program.

(ii) The Joint Country Awards Committee administers each post's (Embassy) award program, including establishment of

procedures for submission, review and approval of proposed awards.

(4) Training. CCN and TCN PSCs are eligible for most of the training courses offered in the Training Course Schedule. However, applications will be processed on a case-by-case basis and are required to be approved by the Contracting Officer.

AIDAR_J.4

AID Acquisition Regulations (AIDAR)

Appendix J: Direct AID Contracts with Cooperating Country Nationals and with Third Country Nationals for Personal Services Abroad

5. Soliciting for Personal Service Contracts

AIDAR, App. J, 5. Soliciting for Personal Service Contracts

5. Soliciting for Personal Services Contracts.

(a) Project Officer's Responsibilities. The Project Officer will prepare a written detailed statement of duties and a statement of minimum qualifications to cover the position being recruited for; the statement shall be included in the procurement request. The procurement request shall also include the following additional information as a minimum:

(1) The specific foreign location(s) where the work is to be performed, including any travel requirements (with an estimate of frequency);

(2) The length of the contract, with beginning and ending dates, plus any options for renewal or extension;

(3) The basic education, training, experience, and skills required for the position;

(4) A certification from the officer in the Mission responsible for the LEPCH or equivalent that the position has been reviewed and is properly classified as to a title, series and grade in accordance with the LEPCH. If the position does not fall within the LEPCH or equivalent system, an estimate of compensation based on subparagraphs 4(c)(2)(ii)(A) or (B) of this Appendix after consultations or in coordination with the contract officer or executive officer;

(5) A list of Government or host country furnished items (e.g., housing); and

(6) If the PSC will be providing advisory and assistance services, include the justification required by AIDAR 737.270(b).

(b) Contracting Officer's Responsibilities.

(1) The Contracting Officer will prepare the solicitation for personal services which shall contain:

(i) Three sets of certified biographical data and salary history. (Upon receipt, one copy of the above information shall be forwarded to the Project Officer);

(ii) A detailed statement of duties or a completed position description for the position being recruited for;

(iii) A copy of the prescribed contract Cover Page, Contract Schedule, and General Provisions as well as the FAR Clauses to be included in full text as well as those to be incorporated by reference; and

(iv) A copy of General Notice entitled "Employee Review of the New Standards of Conduct" dated October 30, 1992.

(2) The Contracting Officer shall comply with the limitations of AIDAR 706.302-70(c) as detailed in paragraph 5(c) below.

(c) Competition.

(1) Under AIDAR 706.302-70(b)(1), Personal Services Contracts are exempt from the requirements for full and open competition with two limitations that must be observed by Contracting Officers:

(I) offers are to be requested from as many potential offerors as is practicable under the circumstances, and

(ii) a justification supporting less than full and open competition must be prepared in accordance with FAR 6.303.

[[FAR06_03]] (Press <F8> to HYPERLINK)

(2) A class justification was approved by the AID Procurement Executive to satisfy the requirements of AIDAR 706.302-70(c)(2) for a justification in accordance with FAR 6.303.

[[FAR06_03]] (Press <F8> to HYPERLINK) Use of this class justification for Personal Services Contracts with Cooperating Country Nationals and Third Country Nationals is subject to the following conditions:

(I) New contracts are publicized consistent with Mission/Embassy practice on announcement of direct hire FSN positions. Renewals or extensions with the same individual for continuing service do not need to be publicized.

(ii) A copy of the class justification (which was distributed to all AID Contracting Officers via Contract Information Bulletin) must be included in the contract file, together with a written statement, signed by the Contracting Officer, that the contract is being awarded pursuant to AIDAR 706.302-70(b)(1); that the conditions for use of this class justification have been met; and that the cost of the contract is fair and reasonable. If the conditions in paragraphs (2)(I) and (ii) are not followed, the Contracting Officer must prepare a separate justification as required under AID 706.302-70(c)(2).

(3) Since the award of a personal services contract is based on technical qualifications, not price, and since the biographical data and salary history are used to solicit for such contracts, FAR Subparts 15.4 and 15.5 are inappropriate and shall not be used. [[FAR15_04]] [[FAR15_05]] (Press <F8> to HYPERLINK) Instead, the solicitation and selection procedures outlined in this Appendix shall govern.

AIDAR_J.5

AID Acquisition Regulations (AIDAR)

Appendix J: Direct AID Contracts with Cooperating Country Nationals and with Third Country Nationals for Personal Services Abroad

6. Negotiating a Personal Services Contract

AIDAR, App. J, 6. Negotiating a Personal Services Contract

6. Negotiating a Personal Services Contract.

Negotiating a Personal Services Contract is significantly different from negotiating a nonpersonal services contract because it establishes an employer-employee relationship; therefore, the selection and negotiations procedures are more akin to the personnel selection procedures.

(a) Project Officer's Responsibilities. The Project Officer shall be responsible for reviewing and evaluating the

applications received in response to the solicitation issued by the Contracting Officer. If deemed appropriate, interviews may be conducted with the applicants before the final selection is submitted to the Contracting Officer.

(b) Contracting Officer's Responsibilities.

(1) The Contracting Officer shall forward a copy of biographical data and salary history received under the solicitation to the Project Officer for evaluation.

(2) On receipt of the Project Officer's recommendation, the Contracting Officer shall conduct negotiations with the recommended applicant. The terms and conditions of the contract will normally be in accordance with the local compensation plan which forms the basis for all compensation on payments paid to FSNs which includes CCNs and TCNs.

(3) The Contracting Officer shall use the certified salary history on the certified statement of biographical data and salary history as the basis for salary negotiations, along with the Project Officer's cost estimate.

(4) The Contracting Officer will obtain necessary data for a security and suitability clearance to the extent required by AID Handbook 6, Security.

AIDAR_J.6

AID Acquisition Regulations (AIDAR)

Appendix J: Direct AID Contracts with Cooperating Country Nationals and with Third Country Nationals for Personal Services Abroad

7. Executing a Personal Services Contract

AIDAR, App. J, 7. Executing a Personal Services Contract

7. Executing a Personal Services Contract.

Contracting activities, whether AID/W or Mission, may execute Personal Services Contracts, provided that the amount of the contract does not exceed the contracting authority that has been redelegated to them. See AIDAR 701.601.

In executing a personal service contract, the Contracting Officer is responsible for insuring that:

(a) The proposed contract is within his/her delegated authority;

(b) A written detailed statement of duties covering the proposed contract has been received;

(c) The proposed scope of work is contractible, contains a statement of minimum qualifications from the technical office requesting the services, and is suitable for a personal services contract in that:

(1) Performance of the proposed work requires or is best suited for an employer-employee relationship, and is thus not suited to the use of a non-personal services contract;

(2) The scope of work does not require performance of any function normally reserved for direct-hire Federal employees (under paragraph 4(b) of this Appendix); and

(3) There is no apparent conflict of interest involved (if the Contracting Officer believes that a conflict of interest may exist, the question should be referred to the cognizant legal counsel);

(d) Selection of the contractor is documented and justified

(AIDAR 706.302-70(b)(1) provides an exception to the requirement for full and open competition for Personal Services Contracts abroad; see paragraph 5(c) of this Appendix);

(e) The standard contract format prescribed for a Cooperating Country National and a Third Country National personal services contract (Sections 9, 10 or 11, 12, and 13 of this Appendix as appropriate) is used, or that any necessary deviations are processed as required by AIDAR 701.470;

(f) The contractor has submitted the names, addresses, and telephone numbers of at least two persons who may be notified in the event of an emergency (this information is to be retained in the contract file);

(g) The contract is complete and correct and all information required on the contract Cover Page (AID form 1420-36B) has been entered;

(h) The contract has been signed by the Contracting Officer and the contractor, and fully executed copies are properly distributed;

(I) The following clearances, approvals and forms have been obtained, properly completed, and placed in the contract file before the contract is signed by both parties:

(1) Security clearance to the extent required by AID Handbook 6, Security;

(2) Mission, host country, and project office clearance, as appropriate;

(3) Medical clearance(s) based on a full medical examination(s) and certification of same by a licensed physician. The physician's certification must be in the possession of the Contracting Officer prior to signature of contract. If a TCN is recruited, medical clearance requirements apply to the contractor and each dependent who is authorized to accompany the contractor;

(4) The approval for any salary in excess of FS-1, in accordance with Appendix G of this chapter;

(5) A copy of the class justification or other appropriate explanation and support required by AIDAR 706.302-70, if applicable;

(6) Any deviation to the policy or procedures of this Appendix, processed and approved under AIDAR 701.470;

(7) The memorandum of negotiation;

(j) The position description is classified in accordance with the LEPCH, and the proposed salary is consistent with the local compensation plan or the alternate procedures established in 4(c)(2)(ii) above;

(k) Funds for the contract are properly obligated to preclude violation of the Anti-Deficiency Act, 31 U.S.C. 134 (the Contracting Officer ensures that the contract has been properly recorded by the appropriate accounting office prior to its release for the signature of the selected contractor);

(l) The contractor receives and understands AID General Notice entitled "Employee Review of the New Standards of Conduct" dated October 30, 1992 and a copy is attached to each contract, as provided for in paragraph (c) of General Provision 2, Section 12;

(m) Agency conflict of interest requirements, as set out in Chapter 2D and 2F of AID Handbook 24, are met by the contractor prior to his/her reporting for duty;

(n) A copy of a Checklist for Personal Services Contractors which may be in the form set out above or another form convenient for the contracting officer, provided that a form containing all of the information described in this paragraph 7 shall be prepared for each PSC and placed in the contract file;

(o) In consultation with the regional legal advisor and/or the regional contracting officer, the contract is modified by deleting from the General Provisions (Sections 12 and 13 of this Appendix) the inapplicable clause(s) by a listing in the Schedule; and

(p) The block entitled, "Project No." on the Cover Page of the contract format is completed by inserting the four-segment project number as prescribed in AID Handbook 18, Information Services if the PSC is project-funded.

AIDAR_J.7

AID Acquisition Regulations (AIDAR)

Appendix J: Direct AID Contracts with Cooperating Country Nationals and with Third Country Nationals for Personal Services Abroad

8. Contract Provisions

AIDAR, App. J, 8. Contract Provisions

8. Contracting Format.

The prescribed Contract Cover Page, Contract Schedules, General Provisions and FAR Clauses for personal service contracts for TCNs and CCNs covered by this Appendix are included as follows:

9. "Cover Page" for a contract with a Cooperating Country National or with a Third Country National.
10. "Schedule" for a contract with a Cooperating Country National or with a Third Country National.
11. "Optional Schedule for Contract with a Cooperating Country National or with a Third Country National."

[Use of the Optional Schedule is intended to serve as an alternate procedure for OE funded Foreign Service National PSCs. The schedule was developed for use when the Contracting Officer anticipates incremental recurring cost funded contracts. It should be noted that the Optional Schedule eliminates the need to amend the contract each time funds are obligated. However, the Contracting Officer is required to amend each contract not less than twice during a 12 month period to ensure that the contract record of obligations is up to date and agrees with the figures in the master funding document.]

12. "General Provisions" for contract with a Cooperating Country National or with a Third Country National.

13. FAR Clauses to be incorporated in full text as well as by reference in personal services contracts.

AIDAR_J.8

AID Acquisition Regulations (AIDAR)

Appendix J: Direct AID Contracts with Cooperating Country Nationals and with Third

Country Nationals for Personal Services Abroad
9. Cover Page
AIDAR, App. J, 9. Cover Page

APPENDIX J

Section 9

Cover Page

Contract with a Cooperating Country National or a Third
Country National for Personal Services.

 AID Form 1420-36B<\A> (APRIL 1992)

AIDAR_J.9

AID Acquisition Regulations (AIDAR)
Appendix J: Direct AID Contracts with Cooperating Country Nationals and with Third
Country Nationals for Personal Services Abroad
10. Schedule
AIDAR, App. J, 10. Schedule

APPENDIX J

Section 10

Schedule

Cooperating Country National or
Third Country National PSC
Contract No. _____

TABLE OF CONTENTS

The Schedule on pages _____ through _____ consists of this
Table of Contents and the following Articles:

ARTICLE I	STATEMENT OF DUTIES
ARTICLE II	PERIOD OF SERVICE
ARTICLE III	CONTRACTOR'S COMPENSATION AND REIMBURSEMENT
ARTICLE IV	COSTS REIMBURSABLE AND LOGISTIC SUPPORT
ARTICLE V	PRECONTRACT EXPENSES
ARTICLE VI	ADDITIONAL CLAUSES

GENERAL PROVISIONS

The following provisions, numbered as shown below, omitting
number(s) _____, are the General Provisions (GPs) of this
Contract:

1. Definitions
2. Compliance with Applicable Laws and Regulations

3. Physical Fitness
4. Security
5. Workweek
6. Leave and Holidays
7. Social Security and Cooperating Country Taxes
8. Insurance
9. Travel and Transportation
10. Payment
11. Contractor-Mission Relationships
12. Termination
13. Allowances
14. Advance of Dollar Funds
15. Conversion of U.S. Dollars to Local Currency
16. Post of Assignment Privileges
17. Release of Information
18. Notices
19. Incentive Awards
20. Training
21. Medical Evacuation Services

SCHEDULE

NOTE: Use of the following Schedule is not mandatory. The Schedule is intended to serve as a guideline and as a checklist for contracting offices in drafting contract schedules. Article language shall be changed to suit the needs of the particular contract. Special attention should be given to the financial planning sections where unnecessary line items should be eliminated.

ARTICLE I - STATEMENT OF DUTIES

[The statement of duties shall include:

- A. General statement of the purpose of the contract.
- B. Statement of duties to be performed.
- C. Orientation or training to be provided by USAID.]

ARTICLE II - PERIOD OF SERVICE

Within ____ days after written notice from the Contracting Officer that all clearances, including the doctor's certificate required under General Provision Clause 3, have been received or unless another date is specified by the contracting officer in writing, the contractor shall proceed to _____ and shall promptly commence performance of the duties specified above. The contractor's period of service shall be approximately _____ in _____. (Specify time of duties in each location.)

ARTICLE III - CONTRACTOR'S COMPENSATION AND REIMBURSEMENT

A. Except as reimbursement may be specifically authorized by the Mission Director or contracting officer, AID shall pay the contractor compensation after it has accrued and make reimbursements, if any are due, in currency of the post or for necessary and reasonable costs actually incurred in the performance of this contract within the categories listed in Paragraph D, below, and subject to the conditions and limitations applicable thereto as set out herein and in the attached General Provisions (GP).

- B. The amount budgeted and available as personal

compensation to the contractor is calculated to cover a calendar period of approximately ____ (days) (weeks) (months) (years) (which is to include (1) vacation and sick leave which may be earned during contractor's tour of duty (GP Clause No. 6), (2) ____ days for authorized travel (GP Clause 9), and (3) ____ days for orientation and consultation if required by the Statement of Duties.

C. The contractor shall earn vacation leave at the rate of ____ days per year under the contract (provided the contract is in force for at least 90 days) and shall earn sick leave at the rate of ____ days per year under the contract.

D. Allowable Costs.

1. Compensation at the rate of LC ____ per (year) (month) (week) (day), equivalent to Grade FSN- ____/____, in accordance with the Mission's Local Compensation Plan. If during the effective period of this contract the Local Compensation Plan is revised, contractor's compensation will be revised accordingly and contractor will be notified in writing by the contracting officer. Adjustments in compensation for periods when the contractor is not in compensable pay status shall be calculated as follows: Rate of LC ____ per (day) (hour).

LC ____

2. Overtime (Unless specifically authorized in the Schedule of this contract, no overtime hours shall be allowed hereunder.)

3. Travel and Transportation (Ref. GP Clause 9).
(Includes the value of TRs furnished by the Government, not payable to contractor).

a.	United States	\$ ____	
b.	International	\$ ____	
c.	Cooperating and Third Country	\$ ____	LC ____
	Subtotals Item 3	\$ ____	LC ____
4.	Subsistence or Per Diem (Ref. GP Clause 9).		
a.	United States	\$ ____	
b.	International	\$ ____	
c.	Cooperating and Third Country	\$ ____	LC ____
	Subtotals Item 4	\$ ____	LC ____
5.	Other Direct Costs		
a.	Physical Examination (Ref. GP Clause 3).		LC ____
b.	Miscellaneous		LC ____
	Subtotal Item 5		LC ____
A	Total Estimated Costs (Lines 1 thru 5)	\$ ____	LC ____

E. Maximum U.S. Dollar and Local Currency Obligation.

In no event shall the maximum U.S. Dollar obligation under this contract exceed \$ ____ nor shall the maximum local currency obligation exceed LC ____ . Contractor shall keep a close account of all obligations incurred and accrued hereunder and promptly notify the contracting officer whenever it appears that the said maximum is not sufficient to cover all compensation and costs reimbursable which are anticipated under the contract.

ARTICLE IV - COSTS REIMBURSABLE AND LOGISTIC SUPPORT

A. General.

The contractor shall be provided with or reimbursed in local currency (____) for the following:

[Complete]

B. Method of Payment of Local Currency Costs.

Those contract costs which are specified as local currency costs in Paragraph A, above, if not furnished in kind by the cooperating government or the Mission, shall be paid to the contractor in a manner adapted to the local situation, based on vouchers submitted in accordance with GP Clause 10. The documentation for such costs shall be on such forms and in such manner as the Mission Director shall prescribe.

C. Cooperating or U.S. Government Furnished Equipment and Facilities.

[List any logistical support, equipment, and facilities to be provided by the cooperating government or the U.S. Government at no cost to this contract; e.g., office space, supplies, equipment, secretarial support, etc., and the conditions, if any, for use of such equipment.]

ARTICLE V - PRECONTRACT EXPENSES

No expense incurred before signing of this contract will be reimbursed unless such expense was incurred after receipt and acceptance of a precontract expense letter issued to the contractor by the contracting officer, and then only in accordance with the provisions and limitations contained in such letter. The rights and obligations created by such letter shall be considered as merged into this contract.

ARTICLE VI - ADDITIONAL CLAUSES

[Additional Schedule Clauses may be added to meet specific requirements of an individual contract.]

AIDAR_J.10

AID Acquisition Regulations (AIDAR)

Appendix J: Direct AID Contracts with Cooperating Country Nationals and with Third Country Nationals for Personal Services Abroad

11. Optional Schedule

AIDAR, App. J, 11. Optional Schedule

APPENDIX J

Section 11
Optional Schedule

Cooperating Country National or
Third Country National PSC
Contract No. _____

TABLE OF CONTENTS
(OPTIONAL SCHEDULE)

[Use of the Optional Schedule is not mandatory. It is intended to serve as an alternate procedure for OE funded Cooperating Country National and Third Country National PSCs. The schedule was developed for use when the Contracting Officer anticipates incremental recurring cost funded contracts.

It should be noted that use of the Optional Schedule eliminates the need to amend the contract each time funds are obligated. However, Contracting Officer is required to amend

each contract not less than twice during a 12 month period to ensure that the contract record of obligations is up to date and agrees with the figures in the master funding document.]

The Schedule on pages _____ through _____ consists of this Table of Contents and the following Articles:

ARTICLE I	STATEMENT OF DUTIES
ARTICLE II	PERIOD OF SERVICE
ARTICLE III	CONTRACTOR'S COMPENSATION AND REIMBURSEMENT
ARTICLE IV	COSTS REIMBURSABLE AND LOGISTIC SUPPORT
ARTICLE V	PRECONTRACT EXPENSES
ARTICLE VI	ADDITIONAL CLAUSES

GENERAL PROVISIONS

The following provisions, numbered as shown below, omitting number(s) _____, are the General Provisions (GPs) of this contract.

1. Definitions
2. Compliance with Applicable Laws and Regulations
3. Physical Fitness
4. Security
5. Workweek
6. Leave and Holidays
7. Social Security and Cooperating Country Taxes
8. Insurance
9. Travel and Transportation
10. Payment
11. Contractor-Mission Relationships
12. Termination
13. Allowances
14. Advance of Dollar Funds
15. Conversion of U.S. Dollars to Local Currency
16. Post of Assignment Privileges
17. Release of Information
18. Notices
19. Incentive Awards
20. Training
21. Medical Evacuation Services

ARTICLE I - STATEMENT OF DUTIES

[The statement of duties shall include:

- A. General statement of the purpose of the contract.
- B. Statement of duties to be performed.
- C. Orientation or training to be provided by USAID.]

ARTICLE II - PERIOD OF SERVICE

Employment under this contract is of a continuing nature. Its duration is expected to be part of a series of sequential contracts; all contract provisions and clauses and regulatory requirements concerning availability of funds and the specific duration of this contract shall apply.

Within 10 days after written notice from the Contracting Officer that all clearances have been received, unless another date is specified by the Contracting Officer in writing, the contractor shall proceed to (name place) and shall promptly commence performance of the duties specified in ARTICLE I of this contract. The contractor's period of service shall be approximately (specify duration from date to date).

ARTICLE III - CONTRACTOR'S COMPENSATION AND REIMBURSEMENT

A. Except as reimbursement may be specifically authorized by the Mission Director or Contracting Officer, AID shall pay the contractor compensation after it has accrued and make reimbursements, if any are due, in currency of the cooperating country (LC) in accordance with the prevailing practice of the post or for necessary and reasonable costs actually incurred in the performance of this contract within the categories listed in paragraph D, below, and subject to the conditions and limitations applicable thereto as set out herein and in the attached General Provisions (GP).

B. The amount budgeted and available as personal compensation to the contractor is calculated to cover a calendar period of approximately _____ (days) (weeks) (months) (years) (which is to include (1) vacation and sick leave which may be earned during the contractor's tour of duty) (GP Clause No. 6), (2) _____ days for authorized travel (GP Clause 9), and (3) _____ days for orientation and consultation if required by the Statement of Duties.

C. The contractor shall earn vacation leave at the rate of _____ days per year under the contract (provided the contract is in force for at least 90 days) and shall earn sick leave at the rate of _____ days per year under the contract.

D. All employee rights and benefits from the previous contract or employment, i.e., accumulated annual and sick leave balances, original service computation dates, reserve fund contributions, accumulated compensatory time, social security contributions, seniority and longevity bonuses are considered allowable costs and as a continuation as long as the break in service does not exceed three days.

E. Allowable Costs.

1. The following illustrative budget details allowable costs under this contract and provides estimated incremental recurrent cost funding in the total amount shown. Additional funds for the full term of this contract will be provided by the preparation of a master PSC funding document issued by the Mission Controller for the purpose of providing additional funding for a specific period. The master PSC funding document will be attached to this contract and will form a part of the executed contract while also serving to amend the budget.

2. Overtime (Unless specifically authorized in the Schedule of this contract, no overtime hours shall be allowed hereunder.)

LC _____

3. Travel and Transportation (Ref. CP Clause 9).
(Includes the value of TRs furnished by the Government, not payable to contractor).

a.	United States	\$ _____	
b.	International	\$ _____	
c.	Cooperating and		
	Third Country	\$ _____	LC _____
	Subtotals Item 3	\$ _____	LC _____

4. Subsistence or Per Diem (Ref. GP Clause 9.)

a.	United States	\$ _____	
b.	International	\$ _____	
c.	Cooperating and		
	Third Country	\$ _____	LC _____
	Subtotals Item 3	\$ _____	LC _____

5. Other Direct Costs.

a. Physical Examination	
(Ref. GP Clause 3)	LC _____
b. Miscellaneous	LC _____
Subtotals Item 5	LC _____
Total Estimated Costs	
(Lines 1 thru 5) \$ _____	LC _____

F. Allowable costs compensation and all terms and benefits of employment under this contract will be in accordance with the Mission's local compensation plan. Salary changes and personnel-related contract actions will be made by processing the same forms as used in making such changes and actions for direct-hire FSN employees. When issued by the Contracting Officer, the forms utilized will be attached to the contract and will form a part of the contract terms and conditions.

Any adjustment or increase in the compensation granted to direct-hire employees under the local compensation plan will be allowed for in PSCs subject to the availability of funds. Such an adjustment will be effected by a mass pay adjustment notice from the Contracting Officer, which will be attached to the contract and form a part of the executed contract.

At the end of each year of satisfactory service, PSC contractors will be eligible to receive an increase equal to one annual step increase as shown in the local compensation plan, pending availability of funds. Such increase will be effected by the execution of an SF-1126, payroll change slip which is to be attached to each contract and each action forms a part of the official contract file.

Under the Joint incentive awards program for FSNs, monetary awards will be made pending availability of funds. The increase for the award will be effected by the execution of an SF-1126 which will be attached to the contract and will form a part of the contract. In no event may costs under the contract exceed the total amount obligated.

The master PSC funding document may not exceed the term or estimated total cost of this contract. Notwithstanding that additional funds are obligated under this contract through the issuance and attachment of the master PSC funding document, all other contract terms and conditions remain in full effect.

ARTICLE IV - COSTS REIMBURSABLE AND LOGISTIC SUPPORT

A. General.

The contractor shall be provided with or reimbursed in local currency (_____) for the following:
[Complete]

B. Method of Payment of Local Currency Costs.

Those contract costs which are specified as local currency costs in Paragraph A, above, if not furnished in kind by the cooperating government or the Mission, shall be paid to the contractor in a manner adapted to the local situation, based on vouchers submitted in accordance with GP Clause 10. The documentation for such costs shall be on such forms and in such manner as the Mission Director shall prescribe.

C. Cooperating or U.S. Government Furnished Equipment and Facilities.

[List any logistical support, equipment, and facilities to be provided by the cooperating government or the U.S. Government at no cost to this contract; e.g., office space, supplies, equipment, secretarial support, etc., and the conditions, if any, for use of such equipment.]

ARTICLE V - PRECONTRACT EXPENSES

No expense incurred before signing of this contract will be reimbursed unless such expense was incurred after receipt and acceptance of a precontract expense letter issued to the contractor by the contracting officer, and then only in accordance with the provisions and limitations contained in such letter. The rights and obligations created by such letter shall be considered as merged into this contract.

ARTICLE VI - ADDITIONAL CLAUSES

[Additional Schedule Clauses may be added to meet specific requirements of an individual contract.]

AIDAR_J.11

AID Acquisition Regulations (AIDAR)

Appendix J: Direct AID Contracts with Cooperating Country Nationals and with Third Country Nationals for Personal Services Abroad

12: General Provisions -- Contract With A Cooperating Country National Or Third Country National For Personal Services

Index of Clauses

AIDAR, App. J, Index of Clauses

APPENDIX J

Section 12

General Provisions -- Contract With A
Cooperating Country National Or
Third Country National
For Personal Services

To be used to contract with cooperating country nationals or
third country nationals for personal services.

INDEX OF CLAUSES

1. Definitions
2. Compliance with Applicable Laws and Regulations
3. Physical Fitness
4. Security
5. Workweek
6. Leave and Holidays
7. Social Security and Cooperating Country Taxes
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10. Payment
11. Contractor-Mission Relationships
12. Termination
13. Allowances
14. Advance of Dollar Funds
15. Conversion of U.S. Dollars to Local Currency
16. Post of Assignment Privileges
17. Release of Information
18. Notices

- 19. Incentive Awards
- 20. Training

AIDAR_J.12i

AID Acquisition Regulations (AIDAR)

Appendix J: Direct AID Contracts with Cooperating Country Nationals and with Third Country Nationals for Personal Services Abroad

12: General Provisions -- Contract With A Cooperating Country National Or Third Country National For Personal Services

1. Definitions

AIDAR, App. J, 12.1. Definitions

1. DEFINITIONS (JULY 1993)

[For use in both Cooperating Country National (CCN) and Third Country National (TCN) Contracts].

(a) "AID" shall mean the Agency for International Development.

(b) "Administrator" shall mean the Administrator or the Deputy Administrator of the Agency for International Development.

(c) "Contracting Officer" shall mean a person with the authority to enter into, administer, and/or terminate contracts and make related determinations and findings. The term includes certain authorized representatives of the Contracting Officer acting within the limits of their authority as delegated by the Contracting Officer.

(d) "Cooperating Country National" shall mean the individual engaged to serve in the Cooperating Country under this contract.

(e) "Cooperating Country" shall mean the foreign country in or for which services are to be rendered hereunder.

(f) "Cooperating Government" shall mean the government of the Cooperating Country.

(g) "Government" shall mean the United States Government.

(h) "Economy Class" air travel shall mean a class of air travel which is less than business or first class.

(i) "Local Currency" shall mean the currency of the cooperating country.

(j) "Mission" shall mean the United States AID Mission to, or principal AID office in, the Cooperating Country.

(k) "Mission Director" shall mean the principal officer in the Mission in the Cooperating Country, or his/her designated representative.

(l) "Third Country National" shall mean an individual (i) who is neither a citizen of the United States nor of the country to which assigned for duty, and (ii) who is eligible for return travel to the TCN's home country or country from which recruited at U.S. Government expenses, and (iii) who is on a limited assignment for a specific period of time.

(m) "Tour of Duty" shall mean the contractor's period of service under this contract and shall include, authorized leave and international travel.

(n) "Traveler" shall mean the contractor or dependents of the contractor who are in authorized travel status.

(o) "Dependents" shall mean spouse and children (including step and adopted children who are unmarried and under 21 years of age or, regardless of age, are incapable of self-support.

AID Acquisition Regulations (AIDAR)

Appendix J: Direct AID Contracts with Cooperating Country Nationals and with Third Country Nationals for Personal Services Abroad

12: General Provisions -- Contract With A Cooperating Country National Or Third Country National For Personal Services

2. Compliance With Laws and Regulations Applicable Abroad (July 1993)

AIDAR, App. J, 12.2. Compliance With Laws and Regs Applicable Abroad

2. COMPLIANCE WITH LAWS AND REGULATIONS APPLICABLE ABROAD (JULY 1993)

[For use in both CCN and TCN Contracts].

(a) Conformity to Laws and Regulations of the Cooperating Country.

Contractor agrees that, while in the cooperating country, he/she as well as authorized dependents will abide by all applicable laws and regulations of the cooperating country and political subdivisions thereof.

(b) Purchase or Sale of Personal Property or Automobiles.
[For TCNs Only].

To the extent permitted by the cooperating country, the purchase, sale, import, or export of personal property or automobiles in the cooperating country by the contractor shall be subject to the same limitations and prohibitions which apply to Mission U.S.-citizen direct-hire employees.

(c) Code of Conduct.

The contractor shall, during his/her tour of duty under this contract, be considered an "employee" (or if his/her tour of duty is for less than 130 days, a "special Government employee") for the purposes of, and shall be subject to, the provisions of 18 U.S.C. 202(a) the AID General Notice entitled Employee Review of the New Standards of Conduct. The contractor acknowledges receipt of a copy of these documents by his/her acceptance of this contract.

AID Acquisition Regulations (AIDAR)

Appendix J: Direct AID Contracts with Cooperating Country Nationals and with Third Country Nationals for Personal Services Abroad

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3. Physical Fitness (July 1993)

AIDAR, App. J, 12.3 Physical Fitness

3. PHYSICAL FITNESS (JULY 1993)

[For use in both CCN and TCN Contracts].

(a) Cooperating Country National.

The contractor shall be examined by a licensed doctor of medicine, and shall obtain a certificate that, in the doctor's opinion, the contractor is physically qualified to engage in the type of activity for which he/she is to be employed under the

contract. A copy of the certificate shall be provided to the Contracting Officer before the contractor starts work under the contract. The contractor shall be reimbursed for the cost of the physical examination based on the rates prevailing locally for such examinations in accordance with Mission practice.

(b) Third Country National

(i) The contractor shall obtain a physical examination for himself/herself and any authorized dependents by a licensed doctor of medicine. The contractor shall obtain a certificate from the doctor that, in the doctor's opinion, the contractor is physically qualified to engage in the type of activity for which he/she is to be employed under the contract, and the contractor's authorized dependents are physically qualified to reside in the cooperating country. A copy of that certificate shall be provided to the Contracting Officer prior to the dependents' departure for the cooperating country.

(ii) The contractor shall be reimbursed for the cost of the physical examinations mentioned above as follows: (1) based on those rates prevailing locally for such examinations in accordance with Mission practice or (2) if not done locally, not to exceed \$100 per examination for the contractor's dependents of 12 years of age and over and not to exceed \$40 per examination for contractor's dependents under 12 years of age. The contractor shall also be reimbursed for the cost of all immunizations normally authorized and extended to FSN employees.

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AID Acquisition Regulations (AIDAR)

Appendix J: Direct AID Contracts with Cooperating Country Nationals and with Third Country Nationals for Personal Services Abroad

12: General Provisions -- Contract With A Cooperating Country National Or Third Country National For Personal Services

4. Security (JULY 1993)

AIDAR, App. J, 12.4 Security

4. SECURITY (JULY 1993)

[For use in both CCN and TCN Contracts].

(a) The contractor is obligated to notify immediately the Contracting Officer if the contractor is arrested or charged with any offense during the term of this contract.

(b) The contractor shall not normally have access to classified or administratively controlled information and shall take conscious steps to avoid receiving or learning of such information. However, based on contractor's need to know, Mission may authorize access to administratively controlled information for performance of assigned scope of work on a case-by-case basis in accordance with AID Handbook 6.

(c) The contractor agrees to submit immediately to the Mission Director or Contracting Officer a complete detailed report marked "Privileged Information", of any information which the contractor may have concerning existing or threatened espionage, sabotage, or subversive activity against the United States of America or the USAID Mission or the cooperating country government.

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AID Acquisition Regulations (AIDAR)

Appendix J: Direct AID Contracts with Cooperating Country Nationals and with Third Country Nationals for Personal Services Abroad

12: General Provisions -- Contract With A Cooperating Country National Or Third Country National For Personal Services

5. Workweek (OCT 1987)

AIDAR, App. J, 12.5. Workweek

5. WORKWEEK (OCT 1987)

[For use in both CCN and TCN Contracts].

The contractor's workweek shall not be less than 40 hours, unless otherwise provided in the Schedule, and shall coincide with the workweek for those employees of the Mission or the cooperating country agency most closely associated with the work of this contract. If approved in advance in writing, overtime worked by the contractor shall be paid in accordance with the procedures governing premium compensation applicable to direct-hire foreign service national employees. If the contract is for less than full time (40 hours weekly), the leave earned shall be prorated.

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AID Acquisition Regulations (AIDAR)

Appendix J: Direct AID Contracts with Cooperating Country Nationals and with Third Country Nationals for Personal Services Abroad

12: General Provisions -- Contract With A Cooperating Country National Or Third Country National For Personal Services

6. Leave and Holidays (OCT 1987)

AIDAR, App. J, 12.6. Leave and Holidays

6. LEAVE AND HOLIDAYS (OCT 1987)

[For use in both CCN and TCN Contracts].

(a) Vacation Leave.

The contractor may accrue, accumulate, use and be paid for vacation leave in the same manner as such leave is accrued, accumulated, used and paid to foreign service national direct-hire employees of the Mission. No vacation leave shall be earned if the contract is for less than 90 days. Unused vacation leave may be carried over under an extension or renewal of the contract as long as it conforms to Mission policy and practice. With the approval of the Mission Director, and if the circumstances warrant, a contractor may be granted advance vacation leave in excess of that earned, but in no case shall a contractor be granted advance vacation leave in excess of that which he/she will earn over the life of the contract. The contractor agrees to reimburse AID for leave used in excess of the amount earned during the contractor's assignment under the contract.

(b) Sick Leave.

The contractor may accrue, accumulate, and use sick leave

in the same manner as such leave is accrued, accumulated and used by foreign service national direct-hire employees of the Mission. Unused sick leave may be carried over under an extension of the contract. The contractor will not be paid for sick leave earned but unused at the completion of this contract.

(c) Leave Without Pay.

Leave without pay may be granted only with the written approval of the Contracting Officer or Mission Director.

(d) Holidays.

The contractor shall be entitled to all holidays granted by the Mission to direct-hire cooperating country national employees who are on comparable assignments.

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AID Acquisition Regulations (AIDAR)

Appendix J: Direct AID Contracts with Cooperating Country Nationals and with Third Country Nationals for Personal Services Abroad

12: General Provisions -- Contract With A Cooperating Country National Or Third Country National For Personal Services

7. Social Security and Cooperating Country Taxes (DEC 1986)

AIDAR, App. J, 12.7 Social Security and Cooperating Country Taxes

7. SOCIAL SECURITY AND COOPERATING COUNTRY TAXES (DEC 1986)

[For use in both CCN and TCN Contracts].

Funds for Social Security, retirement, pension, vacation or other cooperating country programs as required by local law shall be deducted and withheld in accordance with laws and regulations and rulings of the cooperating country or any agreement concerning such withholding entered into between the cooperating government and the United States Government.

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AID Acquisition Regulations (AIDAR)

Appendix J: Direct AID Contracts with Cooperating Country Nationals and with Third Country Nationals for Personal Services Abroad

12: General Provisions -- Contract With A Cooperating Country National Or Third Country National For Personal Services

8. Insurance (JULY 1993)

AIDAR, App. J, 12.8 Insurance

8. INSURANCE (JULY 1993)

[For Use in Both CCN and TCN Contracts].

(a) Worker's Compensation Benefits

The contractor shall be provided worker's compensation benefits under the Federal Employees Compensation Act.

(b) Health and Life Insurance

The contractor shall be provided personal health and life insurance benefits on the same basis as they are granted to direct-hire CCNs and TCN employees at the post under the Post Compensation Plan.

(c) Insurance on Private Automobiles - Contractor

Responsibility [For use in TCN contracts]. If the contractor or dependents transport, or cause to be transported, any privately owned automobile(s) to the cooperating country, or any of them purchase an automobile within the cooperating country, the contractor agrees to ensure that all such automobile(s) during such ownership within the cooperating country will be covered by a paid-up insurance policy issued by a reliable company providing the following minimum coverages, or such other minimum coverages as may be set by the Mission Director, payable in U.S. dollars or its equivalent in the currency of the cooperating country: injury to persons, \$10,000/\$20,000; property damage, \$5,000. The contractor further agrees to deliver, or cause to be delivered to the Mission Director, copies of the insurance policies required by this clause or satisfactory proof of the existence thereof, before such automobile(s) is operated within the cooperating country. The premium costs for such insurance shall not be a reimbursable cost under this contract.

(d) Claims for Private Personal Property Losses [For use in TCN contracts]. The contractor shall be reimbursed for private personal property losses in accordance with AID Handbook 23, "Overseas Support", Chapter 10.

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AID Acquisition Regulations (AIDAR)

Appendix J: Direct AID Contracts with Cooperating Country Nationals and with Third Country Nationals for Personal Services Abroad

12: General Provisions -- Contract With A Cooperating Country National Or Third Country National For Personal Services

9. Travel and Transportation Expenses (JULY 1993)

AIDAR, App. J, 12.9 Travel and Transportation Expenses

9. TRAVEL AND TRANSPORTATION EXPENSES (JULY 1993)

[For use in both CCN and TCN Contracts as appropriate].

(a) General. The contractor will be reimbursed in currency consistent with the prevailing practice at post and at the rates established by the Mission Director for authorized travel in the cooperating country in connection with duties directly referable to work under this contract. In the absence of such established rates, the contractor shall be reimbursed for actual costs of authorized travel in the cooperating country if not provided by the cooperating government or the Mission in connection with duties directly referable to work hereunder, including travel allowances at rates prescribed by AID Handbook 22, "Foreign Service Travel Regulations", as from time to time amended.

The Executive or Administrative Officer at the Mission may furnish Transportation Requests (TR's) for transportation authorized by this contract which is payable in local currency or is to originate outside the United States. When transportation is not provided by Government issued TR, the contractor shall procure the transportation, and the costs will be reimbursed. The following paragraphs provide specific guidance and limitations on particular items of cost.

(b) International Travel. For travel to and from post of assignment, the TCN contractor shall be reimbursed for travel costs and travel allowances from place of residence in the country of recruitment (or other location provided that the cost

of such travel does not exceed the cost of the travel from the place of residence) to the post of duty in the cooperating country and return to place of residence in the country of recruitment (or other location provided that the cost of such travel does not exceed the cost of travel from the post of duty in the cooperating country to the contractor's residence) upon completion of services by the individual. Reimbursement for travel will be in accordance with AID's established policies and procedures for its CCN and TCN direct-hire employees and the provisions of this contract, and will be limited to the cost of travel by the most direct and expeditious route. If the contract is for longer than one year and the contractor does not complete one full year at post of duty (except for reasons beyond his/her control), the costs of going to and from the post of duty for the contractor and his/her dependents are not reimbursable hereunder. If the contractor serves more than one year but less than the required service in the cooperating country (except for reasons beyond his/her control) costs of going to the post of duty are reimbursable hereunder but the costs of going from post of duty to the contractor's permanent, legal place of residence at the time he or she was employed for work under this contract are not reimbursable under this contract for the contractor and his/her dependents. When travel is by economy class accommodations, the contractor will be reimbursed for the cost of transporting up to 10 kilograms/22 pounds of accompanied personal baggage per traveler in addition to that regularly allowed with the economy ticket provided that the total number of pounds of baggage does not exceed that regularly allowed for first class travelers. Travel allowances for travelers shall not be in excess of the rates authorized in the Standardized Regulations (Government Civilians, Foreign Areas) hereinafter referred to as the Standardized Regulations - as from time to time amended, for not more than the travel time required by scheduled commercial air carrier using the most expeditious route. One stopover en route for a period of not to exceed 24 hours is allowable when the traveler uses economy class accommodations for a trip of 14 hours or more of scheduled duration. Such stopover shall not be authorized when travel is by indirect route or is delayed for the convenience of the traveler. Per diem during such stopover shall be paid in accordance with the Federal Travel Regulations as from time to time amended.

(c) Local Travel. Reimbursement for local travel in connection with duties directly referable to the contract shall not be in excess of the rates established by the Mission Director for the travel costs of travelers in the Cooperating Country. In the absence of such established rates the contractor shall be reimbursed for actual travel costs in the Cooperating Government or the Mission, including travel allowances at rates not in excess of those prescribed by the Standardized Regulations.

(d) Indirect Travel for Personal Convenience of a TCN. When travel is performed by an indirect route for the personal convenience of the traveler, the allowable costs of such travel will be computed on the basis of the cost of allowable air fare via the direct usually traveled route. If such costs include fares for air or ocean travel by foreign flag carriers, approval for indirect travel by such foreign flag carriers must be obtained from the Contracting Officer or the Mission Director before such travel is undertaken, otherwise only that portion of travel accomplished by the United States-flag carriers will be reimbursable within the above limitation of allowable costs.

(e) Limitation on Travel by TCN Dependents. Travel costs and

allowances will be allowed for authorized dependents of the contractor and such costs shall be reimbursed for travel from place of abode in the country of recruitment to the assigned station in the Cooperating Country and return, only if the dependent remains in the Cooperating Country for at least 9 months or one-half of the required tour of duty of the contract, whichever is greater, except as otherwise authorized hereunder for education, medical, or emergency visitation travel.

Dependents of the TCN contractor must return to the country of recruitment or home country within thirty days of the termination or completion of the contractor's employment, otherwise such travel will not be reimbursed under this contract.

(f) Delays En route. The contractor may be granted reasonable delays en route while in travel status when such delays are caused by events beyond the control of the contractor and are not due to circuitous routing. It is understood that if delay is caused by physical incapacitation, he/she shall be eligible for such sick leave as provided under the "Leave and Holidays" clause of this contract.

(g) Travel by Privately Owned Automobile (POV). If travel by POV is authorized in the contract schedule or approved by the Contracting Officer, the contractor shall be reimbursed for the cost of travel performed in his/her POV at a rate not to exceed that authorized in the Federal Travel Regulations plus authorized per diem for the employee and, if the POV is being driven to or from the cooperating country as authorized under the contract, for each of the authorized dependents traveling in the POV, provided that the total cost of the mileage and the per diem paid to all authorized travelers shall not exceed the total constructive cost of fare and normal per diem by all authorized travelers by surface common carrier or authorized air fare, whichever is less.

(h) Emergency and Irregular Travel and Transportation. [For TCNs only]. Emergency transportation costs and travel allowances while en route, as provided in this section, will be reimbursed not to exceed amounts authorized by the Foreign Service Travel Regulations for FSN direct-hire employees in like circumstances under the following conditions:

(1) The costs of going from post of duty in the cooperating country to another approved location for the contractor and authorized dependents and returning to post of duty, subject to the prior written approval of the Mission Director, when such travel is necessary for one of the following reasons:

(I) Need for medical care beyond that available within the area to which contractor is assigned.

(ii) Serious effect on physical or mental health if residence is continued at assigned post of duty.

(iii) Serious illness, injury, or death of a member of the contractor's immediate family or a dependent, including preparation and return of the remains of a deceased contractor or his/her dependents.

(2) Emergency evacuation when ordered by the principal U.S. Diplomatic Officer in the cooperating country. Transportation and travel allowances at safe haven and the transportation of household effects and automobile or storage thereof when authorized by the Mission Director, shall be payable in accordance with established Government regulations.

(3) The Mission Director may also authorize emergency or irregular travel and transportation in other situations when in his/her opinion the circumstances warrant such action. The

authorization shall include the kind of leave to be used and appropriate restrictions as to time away from post, transportation of personal and household effects, etc.

(I) Country of Recruitment Travel and Transportation. [For TCNs only]. The contractor shall be reimbursed for actual transportation costs and travel allowances in the country of recruitment as authorized in the Schedule or approved in advance by the Contracting Officer or the Mission Director. Transportation costs and travel allowances shall not be reimbursed in any amount greater than the cost of, and time required for, economy-class commercial-scheduled air travel by the most expeditious route except as otherwise provided in paragraph (h) above, unless economy air travel is not available and the contractor adequately documents this to satisfaction of the Contracting Officers in documents submitted with the voucher.

(j) Rest and Recuperation Travel. [For TCNs only]. If approved in writing by the Mission Director, the contractor and his/her dependents shall be allowed rest and recuperation travel on the same basis as direct-hire TCN employees and their dependents at the post under the local compensation plan.

(k) Transportation of Personal Effects (Excluding Automobiles and Household Goods). [For TCNs only].

(1) General. Transportation costs will be paid on the same basis as for direct-hire employees at post serving the same length tour of duty, as authorized in the schedule. Transportation, including packing and crating costs, will be paid for shipping from contractor's residence in the country of recruitment or other location, as approved by the Contracting Officer (provided that the cost of transportation does not exceed the cost from the contractor's residence) to post of duty in the cooperating country and return to the country of recruitment or other location provided the cost of transportation of the personal effects of the contractor not to exceed the limitations in effect for such shipments for AID direct-hire employees in accordance with the Foreign Service Travel Regulations in effect at the time shipment is made. These limitations may be obtained from the Contracting Officer.

The cost of transporting household goods shall not exceed the cost of packing, crating, and transportation by surface common carrier.

(2) Unaccompanied Baggage. Unaccompanied baggage is considered to be those personal belongings needed by the traveler immediately upon arrival of the contractor and dependents. To permit the arrival of effects to coincide with the arrival of the contractor and dependents, consideration should be given to advance shipments of unaccompanied baggage. The contractor will be reimbursed for costs of shipment of unaccompanied baggage (in addition to the weight allowance for household effects) not to exceed the limitations in effect for AID direct-hire employees in accordance with the Foreign Service Travel Regulations in effect when shipment is made. These limitations are available from the Contracting Officer. This unaccompanied baggage may be shipped as air freight by the most direct route between authorized points of origin and destination regardless of the modes of travel used.

(1) Reduced Rates on U.S.-Flag Carriers. Reduced rates on U.S.-flag carriers are in effect for shipments of household goods and personal effects of AID contractors between certain locations. These reduced rates are available provided the shipper furnishes to the carrier at the time of the issuance of the Bill of Lading documentary evidence

that the shipment is for the account of AID. The Contracting Officer will, on request, furnish to the contractor current information concerning the availability of a reduced rate with respect to any proposed shipment. The contractor will not be reimbursed for shipments of household goods or personal effects in amounts in excess of the reduced rates which are available in accordance with the foregoing.

(m) Transportation of things. [For TCNs Only]. Where U.S. flag vessels are not available, or their use would result in a significant delay, the contractor may obtain a release from the requirement to use U.S. flag vessels from the Transportation Division, Office of Procurement, Agency for International Development, Washington, D.C. 20523-1419, or the Mission Director, as appropriate, giving the basis for the request.

(n) Repatriation Travel. [For TCNs Only]. Notwithstanding other provisions of this Clause 9, a TCN must return to the country of recruitment or to the TCN's home country within 30 days after termination or completion of employment or forfeit all right to reimbursement for repatriation travel. The return travel obligation [repatriation travel] assumed by the U.S. Government may have been the obligation of another employer in the area of assignment if the employee has been in substantially continuous employment which provided for the TCN's return to home country or country from which recruited.

(o) Storage of household effects. [For TCNs Only]. The cost of storage charges (including packing, crating, and drayage costs) in the country of recruitment of household goods of regular employees will be permitted in lieu of transportation of all or any part of such goods to the Cooperating Country under paragraph (k) above provided that the total amount of effects shipped to the Cooperating Country or stored in the country of recruitment shall not exceed the amount authorized for AID direct-hire employees under the Foreign Service Travel Regulations. These amounts are available from the Contracting Officer.

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AID Acquisition Regulations (AIDAR)

Appendix J: Direct AID Contracts with Cooperating Country Nationals and with Third Country Nationals for Personal Services Abroad

12: General Provisions -- Contract With A Cooperating Country National Or Third Country National For Personal Services

10. Payment (DEC 1992) [For use in both CCN and TCN Contracts]

AIDAR, App. J, 12.10 Payment [For use in both CCN and TCN Contracts]

10. PAYMENT (DEC 1992)

[For use in both CCN and TCN Contracts].

(a) Payment of compensation shall be based on written documentation supporting time and attendance which may be (1) maintained by the Mission in the same way as for direct-hire CCNs and TCNs or (2) the contractor may submit such written documentation in a form acceptable to Mission policy and practice as required for other personal services contractors and as directed by the Mission Controller or paying office. The documentation will also provide information required to be filed

under cooperating country laws to permit withholding by AID of funds, if required, as described in the clause of these General Provisions entitled Social Security and Cooperating Country Taxes.

(b) Any other payments due under this contract shall be as prescribed by Mission policy for the type of payment being made.

(c) Interest on Overdue Payments.

(1) The Prompt Payment Act, Public Law 97-177 (96 Stat. 85.31; U.S.C. 1801) is applicable to payments under this contract and requires the payment to the contractor of interest on overdue payments and improperly taken discounts.

(2) Determinations of interest due will be made in accordance with the provisions of the Prompt Payment Act and Office of Management and Budget Circular A-125 except as provided in paragraph (3) below or as otherwise specifically provided under this contract.

(3) Notwithstanding the provisions of OMB Circular A-125, Section 4.1, the Government will use its best efforts to make payments under this contract as soon as practicable following receipt of a proper invoice.

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12: General Provisions -- Contract With A Cooperating Country National Or Third Country National For Personal Services

11. Contractor-Mission Relationships (DEC 1986) [For use in both CCN and TCN Contracts].

AIDAR, App. J, 12.11. Contractor-Mission Relationships

11. CONTRACTOR-MISSION RELATIONSHIPS (DEC 1986)
[For use in both CCN and TCN Contracts].

(a) The contractor acknowledges that this contract is an important part of the U.S. Foreign Assistance Program and agrees that his/her duties will be carried out in such a manner as to be fully commensurate with the responsibilities which this entails. Favorable relations between the Mission and the Cooperating Government as well as with the people of the cooperating country require that the contractor shall show respect for the conventions, customs, and institutions of the cooperating country and not become involved in any illegal political activities.

(b) If the contractor's conduct is not in accordance with paragraph (a), the contract may be terminated pursuant to the General Provision of this contract, entitled "Termination." If a TCN, the contractor recognizes the right of the U.S. Ambassador to direct his/her immediate removal from any country when, in the discretion of the Ambassador, the interests of the United States so require.

(c) The Mission Director is the chief representative of AID in the cooperating country. In this capacity, he/she is responsible for the total AID Program in the cooperating country including certain administrative responsibilities set forth in this contract and for advising AID regarding the performance of the work under the contract and its effect on the U.S. Foreign Assistance Program. The contractor will be responsible for

performing his/her duties in accordance with the statement of duties called for by the contract. However, he/she shall be under the general policy guidance of the Mission Director and shall keep the Mission Director or his/her designated representative currently informed of the progress of the work under this contract.

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AID Acquisition Regulations (AIDAR)

Appendix J: Direct AID Contracts with Cooperating Country Nationals and with Third Country Nationals for Personal Services Abroad

12: General Provisions -- Contract With A Cooperating Country National Or Third Country National For Personal Services

12. Termination (NOV 1989) [For use in both CCN and TCN Contracts].

AIDAR, App. J, 12.12 Termination [For use in both CCN and TCN Contracts].

12. TERMINATION (NOV 1989)

[For use in both CCN and TCN Contracts].

(This is an approved deviation to be used in place of the clause specified in FAR 52.249-12<\A>.)

(a) The Government may terminate performance of work under this contract in whole or, from time to time, in part:

(1) For cause, which may be effected immediately after establishing the facts warranting the termination, by giving written notice and a statement of reasons to the contractor in the event (i) the contractor commits a breach or violation of any obligations herein contained, (ii) a fraud was committed in obtaining this contract, or (iii) the contractor is guilty (as determined by AID) of misconduct in the cooperating country. Upon such a termination, the contractor's right to compensation shall cease when the period specified in such notice expires or the last day on which the contractor performs services hereunder, whichever is earlier. No costs of any kind incurred by the contractor after the date such notice is delivered shall be reimbursed hereunder except the cost of return transportation (not including travel allowances), if approved by the Contracting Officer. If any costs relating to the period subsequent to such date have been paid by AID, the contractor shall promptly refund to AID any such prepayment as directed by the Contracting Officer.

(2) For the convenience of AID, by giving not less than 15 calendar days advance written notice to the contractor. Upon such a termination, contractor's right to compensation shall cease when the period specified in such notice expires except that the contractor shall be entitled to any accrued, unused vacation leave, return transportation costs and travel allowances and transportation of unaccompanied baggage costs at the rates specified in the contract and subject to the limitations which apply to authorized travel status.

(3) For the convenience of AID, when the contractor is unable to complete performance of his/her services under the contract by reason of sickness or physical or emotional incapacity based upon a certification of such circumstances by a duly qualified doctor of medicine approved by the Mission. The contract shall be deemed terminated upon delivery to the

contractor of a termination notice. Upon such a termination, the contractor shall not be entitled to compensation except to the extent of any accrued, unused vacation leave, but shall be entitled to return transportation, travel allowances, and unaccompanied baggage costs at rates specified in the contract and subject to the limitations which apply to authorized travel status.

(b) The contractor, with the written consent of the Contracting Officer, may terminate this contract upon at least 15 days' written notice to the Contracting Officer.

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AID Acquisition Regulations (AIDAR)

Appendix J: Direct AID Contracts with Cooperating Country Nationals and with Third Country Nationals for Personal Services Abroad

12: General Provisions -- Contract With A Cooperating Country National Or Third Country National For Personal Services

13. Allowances (DEC 1986) [For TCNs only].

AIDAR, App. J, 12.13 Allowances [For TCNs only].

13. ALLOWANCES (DEC 1986)

[For TCNs only].

Allowances will be granted to the contractor and authorized dependents on the same basis as to direct-hire TCN employees at the post under the Post Compensation Plan. The allowances provided shall be paid to the contractor in the currency of the cooperating country or in accordance with the practice prevailing at the Mission.

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AID Acquisition Regulations (AIDAR)

Appendix J: Direct AID Contracts with Cooperating Country Nationals and with Third Country Nationals for Personal Services Abroad

12: General Provisions -- Contract With A Cooperating Country National Or Third Country National For Personal Services

14. Advance of Dollar Funds (DEC 1986) [For TCNs only].

AIDAR, App. J, 12.14 Advance of Dollar Funds [For TCNs only].

14. ADVANCE OF DOLLAR FUNDS (DEC 1986)

[For TCNs only].

If requested by the contractor and authorized in writing by the Contracting Officer, AID will arrange for an advance of funds to defray the initial cost of travel, travel allowances, authorized precontract expenses, and shipment of personal property. The advance shall be granted on the same basis as to an AID U.S.-citizen direct-hire employee in accordance with AID Handbook 22, Chapter 4.

AIDAR_J.1214

AID Acquisition Regulations (AIDAR)

Appendix J: Direct AID Contracts with Cooperating Country Nationals and with Third Country Nationals for Personal Services Abroad

12: General Provisions -- Contract With A Cooperating Country National Or Third Country National For Personal Services

15. Conversion of U.S. Dollars to Local Currency [For TCNs only].

AIDAR, App. J, 12.15 Conver. U.S. Dollars to Local Currency

15. CONVERSION OF U.S. DOLLARS TO LOCAL CURRENCY (DEC 1986)
[For TCNs only].

Upon arrival in the cooperating country, and from time to time as appropriate, the contractor shall consult with the Mission Director or his/her authorized representative who shall provide, in writing, the policy the contractor shall follow in the conversion of one currency to another currency. This may include, but not be limited to, the conversion of said currency through the cognizant U.S. Disbursing Officer, or Mission Controller, as appropriate.

AIDAR_J.1215

AID Acquisition Regulations (AIDAR)

Appendix J: Direct AID Contracts with Cooperating Country Nationals and with Third Country Nationals for Personal Services Abroad

12: General Provisions -- Contract With A Cooperating Country National Or Third Country National For Personal Services

16. Post of Assignment Privileges (DEC 1986) [For TCNs only].

AIDAR, App. J, 12.16 Post of Assignment Privileges

16. POST OF ASSIGNMENT PRIVILEGES (DEC 1986) [For TCNs only].

Privileges such as the use of APO, PX's, commissaries and officer's clubs are established at posts abroad pursuant to agreements between the U.S. and host governments. These facilities are intended for and usually limited to U.S. citizen members of the official U.S. Mission including the Embassy, USAID, Peace Corps, U.S. Information Services and the Military. Normally, the agreements do not permit these facilities to be made available to non-U.S. citizens if they are under contract to the United States Government. However, in those cases where the facilities are open to TCN contractor personnel, they may be used.

AIDAR_J.1216

AID Acquisition Regulations (AIDAR)

Appendix J: Direct AID Contracts with Cooperating Country Nationals and with Third Country Nationals for Personal Services Abroad

12: General Provisions -- Contract With A Cooperating Country National Or Third Country National For Personal Services

17. Release of Information (DEC 1986)[For use in both CCN and TCN Contracts].
AIDAR, App. J, 12.17 Release of Information

17. RELEASE OF INFORMATION (DEC 1986)
[For use in both CCN and TCN Contracts].

All rights in data and reports shall become the property of the U.S. Government. All information gathered under this contract by the contractor and all reports and recommendations hereunder shall be treated as privileged information by the contractor and shall not, without the prior written approval of the Contracting Officer, be made available to any person, party, or government, other than AID, except as otherwise expressly provided in this contract.

AIDAR_J.1217

AID Acquisition Regulations (AIDAR)
Appendix J: Direct AID Contracts with Cooperating Country Nationals and with Third Country Nationals for Personal Services Abroad

12: General Provisions -- Contract With A Cooperating Country National Or Third Country National For Personal Services

18. Notices (DEC 1986) [For use in both CCN and TCN Contracts].
AIDAR, App. J, 12.18 Notices [For use in both CCN and TCN Contracts].

18. NOTICES (DEC 1986)
[For use in both CCN and TCN Contracts].

Any notice, given by any of the parties hereunder, shall be sufficient only if in writing and delivered in person or sent by telegraph, telegram, registered, or regular mail as follows:

(a) TO AID: To the Mission Director of the Mission in the Cooperating Country with a copy to the appropriate Contracting Officer.

(b) TO THE CONTRACTOR: At his/her post of duty while in the Cooperating Country and at the contractor's address shown on the Cover Page of this contract or to such other address as either of such parties shall designate by notice given as herein required.

Notices hereunder shall be effective when delivered in accordance with this clause or on the effective date of the notice, whichever is later.

AIDAR_J.1218

AID Acquisition Regulations (AIDAR)
Appendix J: Direct AID Contracts with Cooperating Country Nationals and with Third Country Nationals for Personal Services Abroad

12: General Provisions -- Contract With A Cooperating Country National Or Third Country National For Personal Services

19. Incentive Awards (JULY 1993)

AIDAR, App. J, 12.19 Incentive Awards (JULY 1993)

19. INCENTIVE AWARDS (JULY 1993)

All Cooperating Country National (CCN) Personal Services Contractors (PSCs) and Third Country Nationals (TCNs) of the Foreign Affairs Community are eligible for the Joint Embassy Incentive Awards Program. The program is administered by each post's (Embassy) Joint Country Awards Committee.

AIDAR_J.1219

AID Acquisition Regulations (AIDAR)
Appendix J: Direct AID Contracts with Cooperating Country Nationals and with Third Country Nationals for Personal Services Abroad

12: General Provisions -- Contract With A Cooperating Country National Or Third Country National For Personal Services

20. Training (JULY 1993)

AIDAR, App. J, 20. Training (JULY 1993)

20. TRAINING (JULY 1993)

The contractor may be provided job related training to develop growth potential, expand capabilities and increase knowledge and skills. The training may be funded under the personal services contract.

AIDAR_J.1220

AID Acquisition Regulations (AIDAR)
Appendix J: Direct AID Contracts with Cooperating Country Nationals and with Third Country Nationals for Personal Services Abroad

12: General Provisions -- Contract With A Cooperating Country National Or Third Country National For Personal Services

21. Medical Evacuation (MEDEVAC) Services (JULY 1993) [For TCN Contracts Only].

AIDAR, App. J, 12.21 MEDEVAC Services [For TCN Contracts Only]

21. MEDICAL EVACUATION (MEDEVAC) SERVICES (JULY 1993)

[For TCN Contracts Only].

(a) The contractor agrees to obtain MEDEVAC service coverage for himself/herself and his/her authorized dependents while performing personal services abroad. Coverage shall be obtained pursuant to the terms of the contract between AID and AID's MEDEVAC service provider unless exempted in accordance with paragraph (b).

(b) The following are exempted from the requirements in paragraph (a):

(I) Contractors and their dependents with a health insurance program that includes sufficient MEDEVAC coverage as approved by the Contractor Officer.

(ii) Contractors and their dependents located at

Missions where the Mission Director makes a written determination to waive the requirement for such coverage based on findings that the quality of local medical services or other circumstances obviate the need for such coverage.

(c) Information on the current MEDEVAC service provider, including application procedures, is available from the Contracting Officer.